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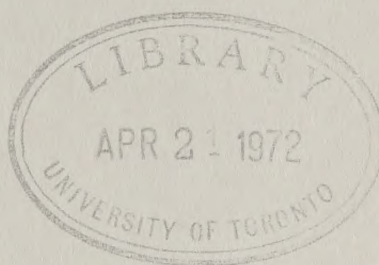
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**ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD
SERVICE ON THE CANADIAN PACIFIC RAILWAY**

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PROCEEDINGS



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Chairman

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ROYAL COMMISSION ON EMPLOYMENT OF
FIREMEN ON DIESEL LOCOMOTIVES IN
FREIGHT AND YARD SERVICE ON THE
CANADIAN PACIFIC RAILWAY

Proceedings of public
hearing held at Toronto,
Ontario, Wednesday,
June 19, 1957

PRESENT:

Hon. R. L. Kellock,	Chairman
Hon. C. C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A. R. Winship,	Asst. Secretary

APPEARANCES:

D. W. Mundell, Q.C., C. J. A. Hughes, Q.C.,	Representing the Commission
I. D. Sinclair, Allan Findlay,	Representing the Canadian Pacific Railway Company
David Lewis,	Representing the Brotherhood of Locomotive Firemen and Enginemen

Wednesday,
June 19, 1957.

55th DAY

MORNING SESSION

---The Commission resumed at 10.00 a.m.

EDMUND BURKE, recalled.

MR. LEWIS: I was finished with
Mr. Burke, Mr. Chairman.

THE CHAIRMAN: Yes; Mr. Sinclair? .

BY MR. SINCLAIR:

Q Mr. Burke, yesterday you recounted to
the Commission an incident on Train
No. 964 in which you termed a fire
developed when you were between MacTier
and Toronto?

A Yes, sir.

Q Do you remember that?

A Yes, sir.

Q And just so that I may summarize what
I recollect to be your testimony, you
said you had a ground relay alarm and
you went back and reset it?

A Yes, sir.

Q And then, that occurred just after the
engineman had put the engine in dynamic
brake?

A That is right.

Q And then you went on a piece and the
engineman applied the dynamic brake
again and you got another ground relay
alarm, correct?

A Yes.

Q And you went back -- and this was on
the second unit in both occasions?

A Yes.

Q And you opened the door and there was a lot of heavy black smoke?

A Yes.

Q There was heavy smoke -- I do not remember whether you said it was black or not?

A Yes, I said it was very heavy.

Q And after you could see you found that there was burning or smoking -- was it burning or smoking?

A When I first saw it there was so much smoke I could not tell. I knew there was a fire but the smoke was so thick I could not tell where the fire was.

Q You opened the door and it cleared a bit and you saw smoke was coming from up where the dynamic grid motor blower was located, is that right?

A Yes, sir.

Q And you investigated that, I presume, and found with the aid of the engineman -- he came back also; he stopped and came back?

A I did not wait to go and tell the engineman. He did not know anything about it at that time.

Q But he did stop after you went back?

A Yes.

Q And when you took a look at it with the engineman you found that the insulation

on the wiring on the motor by the dynamic grid blower had deteriorated and was smouldering or burning?

A Yes, it was burning. It was flaming.

Q It had a very small flame, did it not, witness, because the insulation is treated so that it does not burn?

A Well, it was a small flame, but it was the length of the unit.

Q It was the length of the motor?

A Yes, the motor unit.

Q The motor unit?

A Yes.

Q Now, witness, if no action had been taken that smouldering in the insulation and around that wiring would have just continued and burned itself out. You have seen units like that, have you not?

A It was my first experience with a unit on fire in that particular place and there was enough fire that I would say it was more than smouldering. There were sparks flying around and no doubt if they were allowed to drop down into the motor where there is oil and grease there would be a chance that it would put the whole unit on fire.

Q This is enclosed up in the roof of the motor, is it not? That is where the source of the trouble was, is that not

right? I am referring to this dynamic grid blower.

A The fire was outside where I could see the flame and sparks. It was not inside the case or anything like that.

Q It was inside the motor case where the smoke was coming from?

A It was on fire around the case.

Q Did you know that the wiring in these diesel units is treated to prevent that combustion swinging right out and igniting combustible material such as wood, paper or things like that? Did you know that?

A No, I was never informed about that. I was never informed about the construction material in there.

Q You have a refrigerator at home with an electric motor on it, I suppose?

A Yes.

Q Do you have an oil burner with an electric motor on it?

A No.

Q Do you have an automobile and an electric motor on it?

A Yes.

Q Have you ever examined that?

A I have looked at it, yes.

Q Have you ever had the wiring in either of those motors smoulder or catch on fire as you call it?

A Yes.

Q The other incident you gave evidence about from your experience was concerning Train No. 953?

A That is right, sir.

Q And I think you said it was toward the end of March or early April?

A Yes.

Q And in that instance you were moving northbound with a third diesel unit running dead-head?

A Yes.

Q I think we can agree that it was being sent to Chapleau for repairs?

A That is right, sir, Chapleau.

Q And I think you said that you had a meet at Alliston, Ontario?

A Yes, sir.

Q And you went in there and made your meet?

A Yes, sir.

Q And you pulled out of Alliston and on a curve outside of Alliston -- and here I am quoting you -- "We saw smoke from the third unit." Is that not what you said? That was my note. Is that what you said yesterday?

A Well, I looked out and notified the rest of the crew.

Q Who was "we"? When you say "we" to

whom do you refer?

A The brakeman and the engineman.

Q You were making a running inspection -- the brakeman and yourself -- on the left-hand side when you saw the smoke?

A On the first left-hand curve out of Alliston.

Q You and the brakeman were making a running inspection on the left-hand side when you saw the smoke; is that when you discovered it?

A Yes.

Q You called across to the engineman and he set up the brake and you immediately started back?

A Yes.

Q And when you got back in the unit you could not see anything but you then discovered there was smoke coming from underneath the unit?

A Yes, that is right.

Q And then subsequently you got down and the engineman came back, is that right?

A Yes.

Q And you found that there was a fire underneath the frame of the unit?

A That is right, sir.

Q And I think you used the term that it was burning in grease?

A It was the grease that was on fire.

Q Where you saw the fire was on the piping wrapping, was it not? There was dirt and oil and grease on the piping wrapping?

A Yes, there was dirt and grease.

Q And it was on the piping wrapping where you saw the fire, was it not?

A No, I would say it was on the frame. At the bottom of the diesel there is a frame and it was on the inside of the frame.

Q Do you remember the unit number, Mr. Burke? Was it No. 4022?

A Yes, No. 4022.

MR. SINCLAIR: I think I should tell the Commission that in checking Exhibit No. 164 on the second page I notice that I have a typographical error.

THE CHAIRMAN: Just a moment until we locate it, Mr. Sinclair.

MR. SINCLAIR: It is Exhibit 164. On the second page under Roman IV you will see that it says there unit No. 4422. I noticed in checking that this a typographical error and I must apologize to the Commission and to my friend for that. It is unit No. 4022 and not unit 4422. I would appreciate if that change could be made.

BY MR. SINCLAIR:

Q I believe that unit arrived at Chapleau

on March 29; would that be right?

A I would not want to say the date, sir.

Q This is the report that I have. I am showing you an exhibit and this information is secured from the company's records. The exhibit is No. 164 and it says here:

"... unit 4022 had wrapping of pipe under unit ignited by spark from brake shoe on March 29, 1956."

A Well, I am not prepared to say whether the pipe was on fire because I did not get underneath the diesel. I could not. It was right up on top of the fuel tank, behind the frame.

Q And there was a repair required on that unit having to do with the gasket or the connection where the oil moves from the tank, is that not so? Did you not see that?

A I was not familiar with the repairs. I was told it was going for repairs. That is all I was told.

MR. SINCLAIR: That is all, witness.

THE CHAIRMAN: Mr. Lewis, I understood there were two witnesses to be heard this morning, Mr. Jones and Mr. Powell.

Would you know about that?

MR. LEWIS: Yes, and I also know

of a Mr. Dowdall from North Bay, I think, and I heard about Mr. Powell.

THE CHAIRMAN: I wonder if this would be a convenient place to take them because we said we would take them today?

MR. LEWIS: Certainly. I just had one small question to ask this witness, if I may?

THE CHAIRMAN: I am sorry; yes.

BY MR. LEWIS:

Q Mr. Burke, you told Mr. Sinclair you were making a running inspection of the train when you noticed smoke in the third unit going around a curve after you left Alliston?

A That is right, sir.

Q Did I understand you to say that the brakeman was making an inspection at the same time?

A Yes.

Q And do you recall who called the attention of the engineer to the smoke in the third unit?

A I do not know who actually told the engineer. I know that I did mention the smoke when I saw it and whether the brakeman relayed it or whether the engineer heard what I said, I do not remember.

MR. LEWIS: Thank you, Mr. Burke.

While we are on that point, I wonder whether my friend could indicate which one of the fires -- or whatever he would call them -- recorded in Exhibit No. 164 refers to the incident on Train No. 964 that this witness talked about?

MR. SINCLAIR: Mr. Chairman, as I think we gave in evidence -- I believe it was Mr. Woodland -- where we have on the Canadian Pacific Railway insulation deterioration and smoulder burn-out -- or whatever you want to call it -- we do not record those fires.

MR. LEWIS: So it is not shown in Exhibit 164?

MR. SINCLAIR: No.

MR. LEWIS: Thank you.

THE CHAIRMAN: Mr. Jones?

MR. FRASER: Is Mr. Jones here?

MR. LEWIS: Yes.

THE CHAIRMAN: Mr. Jones, what is your full name?

MR. JONES: James Elwood Jones.

THE CHAIRMAN: And do you want to give evidence?

MR. JONES: Yes.

THE CHAIRMAN: Well then, you will be sworn and you can give your evidence.

MR. JONES: Thank you.

JAMES ELWOOD JONES, sworn.

THE CHAIRMAN: You just proceed,
Mr. Jones.

THE WITNESS: (Reading):

"Mr. Chairman and gentlemen of the
Royal Commission. Your Lordships:
On behalf of the Locomotive Engineers
working on the London Division, I appear
before you today in the matter of a dis-
pute between the B. of L. F. & E. and
the Canadian Pacific Railway Company,
emanating from a request made by the
said company to amend the collective
agreement with the B. of L. F. & E. to
permit the said company to discontinue
the employment of helpers on diesel
locomotives in freight and yard service.

We, the Locomotive Engineers of the
London Division employed by the Canadian
Pacific Railway Company wish to express
our opposition to any change which will
permit the removal of the helper from
diesel locomotives in any class of ser-
vice, because Engineers who are
responsible for the operation of diesel
locomotives --"

MR. SINCLAIR: Mr. Chairman --

THE CHAIRMAN: Just a minute, please,
Mr. Jones.

MR. SINCLAIR: I thought Mr. Jones

was going to give evidence. Apparently he is reading. He has said something about "we, the engineers of the London Division --"

THE WITNESS: I had not completed this, sir, and I think it will explain itself at the last.

THE CHAIRMAN: Just a minute, Mr. Jones, please.

MR. SINCLAIR: I do not think this man has jurisdiction over people.

THE CHAIRMAN: Well, Mr. Sinclair, what is evidence we will be able to use and what is not evidence we will not be able to use, so I think you could safely leave it with the Commission.

MR. SINCLAIR: Thank you.

HON. MR. McLAURIN: He is not the only one possibly who has been irrelevant at times.

MR. SINCLAIR: That may be so, but I do not know how many have spoken on behalf of others over whom they have no jurisdiction.

THE CHAIRMAN: You may proceed, Mr. Jones.

MR. LEWIS: I just want to say, Mr. Chairman, that I do not know where the question of jurisdiction enters into the thing.

THE CHAIRMAN: We will continue to listen to Mr. Jones.

THE WITNESS: I will start this paragraph again:

"We, the Locomotive Engineers of the London Division employed by the Canadian Pacific Railway Company wish to express our opposition to any change which will permit the removal of the helper from diesel locomotives in any class of service, because Engineers who are responsible for the operation of diesel locomotives recognize the value of having a helper on the left side of the locomotive cab.

I also have here in my hand a petition signed by 56 Locomotive Engineers working on the London Division.

This petition was prepared for the purpose of giving the individual Engineers an opportunity to express their personal opinion on this matter. The signatures of the Locomotive Engineers on this petition represent men with five to forty years of practical experience behind them and with the knowledge they have gained from these years of experience, they highly respect the value of a qualified fireman helper in the cab at all times to assist the Engineer in constant observation of signal indications, track conditions, etc.,

"for the safest operation possible for the public, the shipper, the carrier and the employees and in order to give the necessary experience and essential training to employees who will become the efficient Engineers of tomorrow.

As diesel Engineers, there is no doubt in our minds --"

MR. LEWIS: A little slower, please, Mr. Jones.

THE WITNESS: "-- that on the completion of dieselization on the Canadian Pacific Railway Company, trains will be much longer and as we must operate these trains in foggy and stormy weather as well as clear weather, if we lose twenty per cent of our present co-operation when operating trains, it could be disastrous to the public and also to the morale of the crews involved.

This brief is presented by

'Jas. E. Jones'

'885 Lorne Ave'

'London, Ont.'

On behalf of the Locomotive Engineers of the London Division, employed by the Canadian Pacific Railway Company on this 19th day of June, 1957."

At the present moment I have not got the petition. It has been signed by 56 members

and engineers of London.

THE CHAIRMAN: Well, Mr. Jones, we have had this situation before and we feel that we cannot pay any attention to a petition.

THE WITNESS: I see.

THE CHAIRMAN: We are here to hear evidence. We will be very delighted to hear any evidence from you or from any of the men who signed the petition or from anybody else who could help us, but we have to have facts and we are the people who have to make up our minds and express our opinion on this subject. Now, if there is anything that you could help us with we are here to listen to you, but we cannot receive a petition.

THE WITNESS: I see. Well, this letter is self-explanatory, as far as I was concerned. I quoted you about the engineers of tomorrow.

THE CHAIRMAN: There is nothing else you wanted to add, then?

THE WITNESS: Myself, I am an engineer and I have the attitude that in several years' time to come -- there is supposed to be enginemen who are operating these trains and they are not going to know what they are doing. It is an impossibility. I know what I am doing -- at least I should know. I have my train stopped and if a

train has to stop you have to know how to put the brake on. I am stopped and I have a passenger train with me with 500 or 600 of the public riding it and suppose he comes through with a 100-car train and there is probably 300 men killed, all due to the fact that the man did not know what to do. You just do not stop a 100-car train like it was a wheelbarrow. You have to know when and how to stop it. That is my own personal opinion and I have not got very much more to say as far as that is concerned.

THE CHAIRMAN: Thank you, Mr. Jones. Are there any questions of the witness?

MR. LEWIS: I haven't any.

MR. SINCLAIR: Yes, Mr. Chairman, one or two.

BY MR. SINCLAIR:

Q You are a former local chairman of the firemen's union at London?

A That is right, sir.

Q And that document you read; did you draw it yourself?

A Yes.

Q You wrote it out yourself?

A Yes.

Q I observed that you used the word "carrier". Do you always use the word "carrier" -- a United States term -- when you refer to the railway?

A Well, that is what it is.

Q That is the term you usually use?

A Yes.

Q Is it?

A That is right.

Q And when you wrote in to the Commission asking for this appointment, did you write that letter yourself?

A Yes, I did.

Q You drafted it yourself?

A That is right.

Q You had no instructions as to what wording was to be used?

A No.

Q Are you sure of that?

A Yes.

Q You composed it yourself?

A And my wife typed it out.

Q But those were your words? You drafted it up yourself?

A Yes.

THE CHAIRMAN: Thank you, Mr. Jones.

MR. FRASER: Is Mr. Herbert Powell here?

MR. POWELL: Yes.

THE CHAIRMAN: What is your full name?

MR. POWELL: Herbert William Powell.

THE CHAIRMAN: Do you wish to give evidence?

MR. POWELL: I wish to present a brief on behalf of some of the engineers working in and around the Toronto district. The reason we have a brief here is because we have a lot of the engineers and we knew it would be impossible or almost impossible for this Royal Commission to hear each and every individual and therefore we had a gathering of different small gatherings in which we discussed what we thought would be the best way of giving information to this Royal Commission on how the engineers in this area feel about taking off the fireman or helper off the diesel. And we agreed among ourselves -- and this is not a union of the Brotherhood of Locomotive Firemen and Engineers' idea -- because it is signed by engineers who are not union members. We agreed the best way would be to have one man come up in front of the Commission and express the viewpoint of the engineers who signed this brief or this petition. I was elected for this job and I appear before you today to do my best.

THE CHAIRMAN: Well, you do your best, then.

MR. POWELL: Thank you.

---(Witness reading):

"Mr. Chairman and gentlemen of the Royal Commission: I am appearing

"before you on behalf of the Locomotive Engineers employed by the Canadian Pacific Railway, Toronto District, 158 of whom have signed a petition, which is attached herewith, expressing their opposition to the removal of the fireman or helper from diesel locomotives in freight and yard service.

A meeting of engineers was held to consider the best possible way of presenting the view and opinion of the engineers to the Royal Commission. It was decided that the best way would be to have petitions circulated, and signed by engineers themselves, and to elect a spokesman to present their views; and so, gentlemen, I was elected as spokesman to present their view on the problem -- and I will now endeavour to do so.

First, let me explain that I personally, nor the engineers I represent, are not appearing as a witness for the company, nor as a witness for the Brotherhood of Locomotive Firemen and Enginemen, but, rather as volunteer witnesses, to give what we consider to be valuable information to the members of the Royal Commission. After all, who should know better than the men who

"have spent years of their lives on the engine, whether it is safe to operate an engine without a qualified man in the cab with him.

Mr. Chairman and gentlemen of the Royal Commission: Engineers that I represent have the best interests of this great company at heart, just as much as the officials of the company. That is why their interest in this very important question is so keen. We feel that our officials have slipped off the rails and are checking dollars against safety, we also feel that officials could economize in other less vital matters and consider the safety factor first. May I quote in part a small item regarding safety that appeared in the 'Spanner', a company publication of May 1957. 'Mr. D.D. Russell, supervisor of the bureau of safety, loss and damage prevention of the Canadian Pacific Railway said in a recent interview: - The Canadian Pacific Railway has a safety record equal to that of any railway in North America, officers and employees have made this possible by adhering to the rule that safety is an essential factor in good railroading.'

I appreciate just what this safety official said, and know that

"engineers, firemen, conductors, brakemen and switchmen have helped to maintain this safety record. We believe that a fireman/helper in addition to the rest of the crew in yard and freight service is necessary to help keep up that record. By taking off the one man so essential to helping an engineer the margin of safety would be reduced by 20 per cent. As for the company's contention that having a fireman on passenger trains for three years, and then promoting him to be an engineer and going out on freight trains under guidance or instructions of a road foreman of engines for a few trips, is such a fantastic statement that we experienced engineers, trained the long, hard way, can hardly believe an experienced official of such a large company as the Canadian Pacific Railway would make such a statement, except in jest. I will explain why we think so. The running of a passenger train is quite different than a freight train. First, a passenger train is comparatively short, as against 90 to 110 large box cars, and therefore the system of handling the brake is different, in order to prevent damage to rolling stock and

"equipment. Secondly, the passenger train, generally speaking, has the right of way; the passenger crew can roll along knowing that all freight trains will pull into sidings and leave the track clear for the passenger train. On the other hand, the freight crews must work and plan together just what distance they can safely go before pulling into the siding, leaving the track clear for all other trains having right over them, many of which are first-class passenger trains. Engineers and firemen work and check together to avoid mistakes. Today these are experienced men but where would a young inexperienced engineer with no qualified fireman or helper to consult with, get his ideas and judgment confirmed.

We feel that the company would have to promote or appoint so many foremen of engines and instructors that it would not be feasible nor profitable, and we would thereby lose the all-important element of safety. Of course, we too are concerned that qualified engineers would not be given the chance of training these young firemen or helpers to be the efficient,

"experienced engineers required for future service. We are interested in this question for two reasons: First, safety for ourselves and fellow employees, the safe handling of our expensive engines and rolling stock and the safety of the passengers we carry. Secondly, we believe experienced engineers are the only men who can train the fireman or helper to take his rightful place as the skilled engineer of tomorrow.

The engineers for whom I am speaking feel also that the removal of helpers from diesel engines is fraught with danger to the general public and will add abnormal strain and unreasonable responsibility on engineers who now carry a responsibility that is already heavy and exacting.

Therefore, we trust that the Commission will reject the company's proposal to discontinue the employment of helpers on diesel locomotives in freight and yard service.

Mr. Chairman and gentlemen of the Royal Commission, I am not a lawyer and this petition was not prepared by a legal mind. I trust you will accept it in the spirit in which it is presented.

" Respectfully submitted,

Herbert Powell,
Locomotive Engineer,
Canadian Pacific Railway,
Toronto."

May I add that I made that up myself with the assistance of my wife and I did not take anything out of this from any other document and, as I say, I do hope you will accept it as I have written it -- as I said, not being a lawyer. Thank you.

THE CHAIRMAN: Well, Mr. Powell, I think I can say to you that the Commission will regard this from the standpoint of the spirit in which you presented it and we will regard the whole problem before us in the light of these things that you have put forward.

Now, you may want to be asked some questions by the gentlemen present.

MR. LEWIS: I have no questions.

THE CHAIRMAN: Mr. Sinclair?

MR. SINCLAIR: Yes, I have one or two.

BY MR. SINCLAIR:

Q You wrote a letter to the Commission, Mr. Powell, asking for the appointment for you to come and give evidence?

A That is quite right.

Q Did you draw that letter yourself?

A Yes.

Q Did you copy Mr. Jones' letter?

A Mr. Jones? Who is Mr. Jones?

Q The man who was on the stand before you.

A No.

Q Who wrote the letter? Where did it come from?

A I haven't the faintest idea. I was handed that by my local chairman, the letter that I wrote to the Commission. It is not of my making. This speech is what I had reference to when I said I had made it up myself.

Q And you are a member of the B. of L.E.?

A I am.

Q And you know quite a bit about the Brotherhood of Locomotive Engineers organization?

A Well, I have been an officer for some years. I was local chairman for almost five years. I am now the chief engineer.

Q And you know that the B. of L.E. represents certain railroads in North America?

A Not in Canada. I do not think in Canada, but in North America, yes.

Q And you know that the Brotherhood of Locomotive Firemen represents enginemen

on other railways as well? Firemen?

A Yes, I believe that is correct.

Q Am I correct about this, that earlier this year there was a suggestion that the two organizations merge and present a common front on the matter? Is that not so?

A No.

Q Did not Mr. Gilbert propose that?

A The second part of your statement was, I do not think, correct. The first part was. For some years there has been a movement underfoot to have the two organizations amalgamate -- I think that is the correct word -- but the engineers have turned that down at different times. Five years ago when I was in Cleveland as the delegate to the international convention of the Brotherhood of Locomotive Engineers it was brought up on the floor and debated and turned down.

Last year the question came up again before all the delegates from North America and it was turned down. Now, Mr. Gilbert -- in answering your question -- he did send out a letter asking if we were considering amalgamation and that was turned down.

Q And he sent that letter to members

all over North America?

A I believe that is correct.

Q All the railways?

A I believe that is correct.

Q And in addition, Mr. Powell, I presume that you read the official publication of your lodge?

A I do.

Q Of your organization?

A That is where I got this clipping.
Oh, you said "of our organization."
I am sorry; I thought you were talking about the Canadian Pacific Railway rather than our organization. You were referring to the "Spanner".

Q Do you remember reading an article from the Grand Chief Engineer of the B. of L.E., Mr. Guy L. Brown entitled, "Hard to get an answer"?

A No.

Q Do you remember that? It sets out certain correspondence between the firemen's union and the engineers' union all about this very issue. You did not read that?

A No, I am sorry, but I must have missed it. I do get the magazine.

Q "Hard to get an answer" was the title?

A No.

Q And here is a letter from Mr. Gilbert

to Mr. Brown --

MR. LEWIS: Mr. Chairman, if you will permit me, I would like to say a few words. The witness says he did not read it. I will tell my friend and I will be glad also to tell the Commission what is in that correspondence, but I do not think my friend should put it through the mouth of a witness who said he did not read it.

THE CHAIRMAN: No, he cannot do it in that way.

MR. LEWIS: I will be very glad to give to the Commission and to my friend on behalf of my client and myself -- because I am mentioned in that correspondence -- anything that took place in that correspondence.

THE CHAIRMAN: I think we could deal with the paper that you have in your hand, Mr. Sinclair, but I do not think it is proper for you to put it in through this witness. Although he receives the magazine he did not read it.

BY MR. SINCLAIR:

Q All the other members of the B. of L.E. that you have discussed this with, they are also people who got this magazine. It is given to them as a part of their dues for membership in the B. of L.E.?

A Yes, but this is not just signed by members of the B. of L.E. This petition--

Q I will come to that in a minute. Any member of the B. of L.E. receives this magazine as part of his dues, does he not?

A Yes.

Q And while you may have missed it it would be kind of unusual to have all the people you talked to miss it? You would agree with that, would you not?

A Yes.

MR. LEWIS: I will admit that some people may have read it.

THE WITNESS: May I ask what this is about?

MR. SINCLAIR: It is about this issue and I will put something to you in just a minute.

BY MR. SINCLAIR:

Q You said your interest was based on two reasons. You said there was the question of safety in train operations and in this correspondence it has reference to the union principle involved in this dispute and the principle of transferring duties and responsibilities to other employees in the manner contemplated.

This is what Mr. Gilbert of the firemen's union says:

"First I desire to point out that the plan of approach to the

"preparation of the case was discussed fully with me by your counsel, Mr. David Lewis, before discussing it at the meeting in Ottawa at which time Assistant Grand Chief Engineer Travers was present."

THE CHAIRMAN: Mr. Sinclair, if you have a question to put to Mr. Powell, put it; but I do not think that at this time --

THE WITNESS: Mr. Chairman, I have never met Mr. Lewis in my life!

THE CHAIRMAN: Just a minute, Mr. Powell. If you think that should be put in you could put it in later on, Mr. Sinclair, but unless you have something that you want to get from Mr. Powell you should not read it.

MR. SINCLAIR: I have something I specifically want to put to him. I want to know whether in addition to the matters he referred to if certain of the matters delineated here were not motivating himself and those for whom he is speaking.

THE CHAIRMAN: You can ask him that but not as though he had seen that paper.

MR. SINCLAIR: Very well, Mr. Chairman.

BY MR. SINCLAIR:

Q In the discussion that you had with the enginemen on whose behalf you are speaking was there any discussion about the union

principles involved?

A Mr. Chairman, that was not spoken of at all because some of those members that signed this are -- what shall I say? -- very strongly against the union because we have union dues agreements under which we make them pay their share which I will not go into, but they are definitely and bitterly against the union because they were chiselers and now they are being forced to pay their share. Of course, they have no love for the union or unionism and so unionism was not mentioned in it whatsoever.

THE CHAIRMAN: You see how far afield we are getting, Mr. Sinclair?

HON. MR. McLAURIN: Oh, it is terrible!

MR. SINCLAIR: I think the particularly graphic language used by the witness makes my point as far as I wish to make it at this time.

BY MR. SINCLAIR:

Q You are a Canadian citizen, Mr. Powell?

A Yes.

Q And you have been for some time?

A I was overseas and wounded in both wars.

Q And in the last war too?

A Yes, and I was born in this country.

Q And you were supported by a very excellent air force, the Royal Canadian Air Force, in your campaign in Europe?

A Yes, and don't leave out the navy.

Q Yes; and some of the people in the navy came off the prairies and the first boat that they ever saw was when they went to war and some of them made wonderful sailors?

A Yes.

Q You would agree with that?

A Yes.

Q And some of the boys who flew the aeroplanes came off the prairies and they made wonderful pilots in a very few weeks, correct?

A No, not in a few weeks.

Q Well, how many?

A Well, I am a soldier and being a soldier I do not know too much about the air force.

Q But you like the navy?

A Well, yes.

Q Now, you mentioned clearing passenger and superior trains in your brief. On these trains the responsibility of running the train and making sure you clear rests fundamentally with the boss of the whole outfit, the captain of the ship, as

it were, and that is the conductor?
He is the man in charge of the whole
train?

A That is quite right.

MR. SINCLAIR: That is all,
Mr. Powell.

THE CHAIRMAN: Thank you very
much, Mr. Powell.

MR. LEWIS: Mr. Chairman, I think
in view of the questions my learned friend
asked both Mr. Jones and Mr. Powell, if you
will permit me -- and in view of the fact
that there will no doubt be other represen-
tations from engineers and perhaps from the
Brotherhood of Railroad Trainmen, I would
ask your permission to put the following on
the record which I am doing, as it were, off
the cuff and from memory.

THE CHAIRMAN: Yes.

MR. LEWIS: As I informed the
Commission in my opening remarks -- and I
do not know how many hundreds of years ago
that was; but on March 4, I think it was,
if my memory serves me right -- I had had
occasion to discuss this matter with a good
many employees of the railway in every
branch of employment and I suggested to the
Commission what the views expressed to me
were.

Sometime during our sittings in

Ottawa the Vice-Presidents of the Brotherhood of Locomotive Engineers and of the Brotherhood of Railroad Trainmen were in touch with Mr. Gamble and myself to discuss -- I am not saying who mentioned what first because I just do not remember; there was no transcript-- to discuss how the members of the other two Brotherhoods could assist in presenting the views of the employees of the Canadian Pacific Railway to this Commission.

There was nothing secret about it and my friend can file this article from the magazine of the Brotherhood of Locomotive Engineers; and, as a matter of fact, I was the one who suggested that an opinion from an organization could not be of very much value to this Commission but that if the members of the Brotherhood of Engineers and the Brotherhood of Trainmen were individually interested in the issue, then the way to bring that to the attention of the Commission was to have a petition circulated to obtain the opinion of those who were interested and for someone to appear before this Commission to justify the position taken by themselves and their fellow members.

The correspondence which my friend has and which was published by what I think they call the Grand Chief Engineer -- that is, the President of the Brotherhood of

Locomotive Engineers -- contained correspondence between the Presidents of the two Brotherhoods as to the arrangements and discussions that were made.

I am not going to say at this stage, Mr. Chairman, -- because I do not propose to make a long speech on it -- as to what weight the Commission should give to these representations. I will have a chance to do that at some later date. But I want to make clear to this Commission with the greatest respect that I make no apologies for those discussions between the three Brotherhoods.

MR. SINCLAIR: Between the three?

MR. LEWIS: Among the three Brotherhoods.

MR. SINCLAIR: There were five present, were there not? What about Mr. Frank Hall, Vice-President of the Clerks' organization and Mr. Smith of Division 4 of the Shop Crafts?

MR. LEWIS: As a matter of fact, I do not recall Mr. Frank Hall being present at that meeting.

MR. SINCLAIR: Well, it is written here.

MR. LEWIS: I said I did not recall him being present at the meeting. Now that my friend mentions it, I do recall.

Mr. Gamble advises me that Mr. Hall was there.

MR. SINCLAIR: Well, Mr. Chairman--

THE CHAIRMAN: I do not see anything wrong with people who are interested in a question getting together.

MR. LEWIS: Thank you, Mr. Chairman. That was the burden of my remarks and you have put it very precisely and clearly so I will not take any more time.

MR. SINCLAIR: Mr. Gamble has confirmed that Mr. Hall was there. I think he would also confirm that Mr. Smith was there and that it was a meeting of all railway labour.

THE WITNESS: Mr. Chairman, might I answer a question that I did not answer to our friend?

THE CHAIRMAN: One minute, please, Mr. Powell.

MR. LEWIS: If it is Mr. William Smith my friend is talking about, he was not there.

MR. SINCLAIR: Yes, he was there, and so was Mr. J. A. Huneault who is apparently not mentioned from the Brotherhood of Maintenance of Way Employees' Union.

MR. LEWIS: Yes, I remember that they were there. They were sitting in the same room that day. I saw them there.

THE CHAIRMAN: Oh, let us not have a discussion about this. Is there anything else you want to say to the Commission? Mr. Powell, you had something to add?

THE WITNESS: The gentleman here asked me a question --

THE CHAIRMAN: That was Mr. Sinclair?

THE WITNESS: Thank you, it was Mr. Sinclair. I gave an answer but not quite a full answer. He asked me if the conductor was not the captain of the ship and responsible for the train and I said yes and unfortunately that is not quite correct. According to our rule book the engineer and the conductor are equally responsible for the safety of their train. I did not add that to the question. Is that what you wished me to say, Mr. Sinclair?

MR. SINCLAIR: I did not wish you to say anything except what was the fact in accordance with the rules.

THE CHAIRMAN: Have you anything else to add, Mr. Powell?

THE WITNESS: No.

THE CHAIRMAN: Mr. Sinclair?

MR. SINCLAIR: I think he has forgotten one of the rules. "Trains will run under the conductor," I think it says.

THE WITNESS: The responsibility

is equal between the conductor and the engineer. I have gone to the local chairman to represent engineers at different times who were blamed equally with the conductor for the safety of the train.

MR. SINCLAIR: There is a joint responsibility -- I think we can agree on that -- among all the train crew under the rules?

THE WITNESS: Yes, sir. Fine, thank you.

THE CHAIRMAN: Have you another witness?

MR. LEWIS: Yes. I now call Mr. William Leslie Druce.

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WILLIAM LESLIE DRUCE, sworn.

EXAMINED BY MR. LEWIS:

Q Would you like to sit down, Mr. Druce?

A Thank you.

Q Mr. Druce, you informed me that you joined the Canadian Pacific Railway in 1908 as a wiper and that you were made a fireman in 1909, is that correct?

A Yes.

Q You were promoted to engineer in 1913?

A Correct.

Q And you were an engineer until 1945 and you worked the Manitoba District mainly, is that right?

A Correct.

Q You became an officer of the Brotherhood of Locomotive Firemen and Engineers first as long ago as 1913 when you were the local chairman at Souris, Manitoba, for a year or two and then later, in 1920, you became the local chairman at Brandon, Manitoba?

A Yes.

Q And in 1934 you became the Senior Vice-Chairman of the General Committee of the Canadian Pacific Railway for the Brotherhood of Firemen?

A Yes.

Q In 1945 you became the General Chairman on the Canadian Pacific

Railway lines and in 1952 you were made a Vice-President, the office which you now hold?

A That is correct.

MR. LEWIS: Now, Mr. Chairman, I had a discussion with my friend, Mr. Sinclair, and for various reasons I would like the permission of the Commission -- because I think it will be helpful to the Commission and will take a great deal less time -- for Mr. Druce to present his evidence in the form of a very brief written submission of which I have copies, instead of in the form of questions and answers. I feel that the nature of the evidence I want him to put on the record could be done in that way and my friend, Mr. Sinclair, said he had no objection.

THE CHAIRMAN: Thank you.

HON. MR. McLAURIN: Will this be an exhibit?

THE CHAIRMAN: Unless you see any advantage, it could just be put on the record.

MR. LEWIS: No, I think not. Go ahead, Mr. Druce.

THE WITNESS: (Reading):

"The evidence I will attempt to present to the Commission will concern the question of arbitraries and mountain differential only and I

"will attempt to present to the Commission a brief historical outline of these two matters.

1. Prior to 1920 the mountain differential had been expressed merely in the rates of pay as shown by the schedule of rates of pay and rules governing service of firemen and engineers over the years. The differential had started as long ago as 1897 in the form of a bonus of \$20 per month for engineers and \$10 per month for firemen. Other concessions were granted at that time in order to attract railway labour to a sparsely populated area of Canada which was just being opened.

2. In 1914 and 1915 an arbitration board, which had been established under the then existing law in the United States, sat to settle a dispute between the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen, on the one side, and a group of railroads on the other side. The Canadian Pacific Railway was a party to those negotiations and to the arbitration proceedings as far as its lines west of Fort William

"were concerned. The Western Arbitration Award, as it has been known, was handed down on April 30, 1915. It covered a number of matters, including wages, and retained special payments in addition to wages which had obtained prior to that date. The award also recognized 'helpers' for electric locomotives or other substitute for steam. The award mentioned a mountain differential higher than the valley differential then being paid and, indeed, awarded an increase of 10 per cent over valley rates.

3. The Canadian Pacific Railway addressed some questions to the Board for rulings as to the meaning or application of the award. In answers given January 21, 1916, the Board made it clear that arbitraries may be retained if they were provided in existing schedules. In fact, the arbitraries were retained.

4. The next event, speaking chronologically, was the McAdoo Award, also known as General Order No. 27, issued May 25, 1918, in the United States. By Order-in-Council, which will be referred to in a moment, this General Order of the United States

"administrator was made applicable to all Canadian railways. The said General Order No. 27 clearly recognized that differentials and arbitraries were to be retained. Thus, Interpretation No. 2 of the General Order No. 27, issued June 14, 1918, by the Director General of Railroads, W. G. McAdoo, stated specifically as follows:

'All arbitrary or special allowances, previously paid on the hourly basis, will be paid at the new hourly rate.

'Arbitraries or special allowances, previously paid on the basis of mileage, will be paid on the new mileage rates.'

5. The Order-in-Council mentioned above was P.C. No. 1768, dated July 16, 1918. Among other things, it provided as follows:

'(1) that the scale of wages of railway companies as fixed by the McAdoo Award in United States territory including any amendments or extension thereof, be applied in Canadian territory, in so far as all lines of railway owned, operated or controlled by the government, are concerned.

" '(2) that the wage scales of privately-owned railway companies in Canada should be similarly advanced.'

6. The McAdoo Award was made applicable to all Canadian railways, including the Canadian Pacific Railway. I would like to add that this was done on the insistence of the managements; the Brotherhoods were not at all happy about the result.

7. Thus, arbitraries and special allowances became an express part of the wages paid engineers and firemen as a result of the McAdoo Award. The Western Lines agreement, dated January 27, 1922, containing Supplement 'B' to the agreement dated April 8, 1920, is, so far as I have been able to ascertain, the first document where mention of the term 'mountain differential' and of the term 'valley differential' is specifically made. The said agreement set out the portions of the road to which the mountain differential was to apply and the amount of that differential and, similarly, set out the portions of the road to which the valley differential was to apply and the amount of such differential.

" 8. As a result of the arbitration award of 1915, the McAdoo Award of 1918 and the subsequent agreements between the Canadian Pacific Railway and the Brotherhood, the mountain and valley differentials and the preparatory and final inspection arbitraries, were established as an integral part of the wages paid firemen or helpers for their services. In every subsequent collective agreement right until the last one, and in all negotiations between the Brotherhood and the Railway, differentials and arbitraries were taken into account as a part of the wage packet agreed upon between the Brotherhood and the Railway. In any case, when the parties could not agree between themselves, the issue of wages, including differentials and arbitraries, was placed before Boards of Conciliation and/or Arbitration. At no time, in the past, did either party succeed in treating the differentials and arbitraries as something apart from and unrelated to the rest of the wage package.

9. As a matter of fact, when Canadian railway wages began to lag behind railway rates in the United

"States, as long ago as the 1920's one of the arguments used by Canadian railroads, and accepted by my and other Brotherhoods, was that even though the rates in Canada were tending to fall below American rates, the differentials and arbitraries and other special rules in this country made up for the difference.

10. Between 1921 and 1953 there were some increases in pay in different years, as well as some temporary reductions. The increases between 1921 and 1953 were flat increases of so many cents or dollars per basic pay. Therefore, there was no change in either the mountain or the valley differential between 1921 and 1953. In 1953 the increase granted was on a percentage basis, namely 12 per cent, and that was the first time that the valley and mountain differentials changed. In other words, the percentage increase in pay was applied to the differentials as well as to the basic day because they were considered an integral part of the wages paid. The same thing happened this year.

11. Thus, the valley differential remained 7 cents between

"1921 and 1953 and was increased to 8 cents for both passenger and freight service, as a result of the percentage increase in wages which was applied by the agreement following the 1953 negotiations. The valley rate will again have been increased by another one cent to 9 cents per basic day by the 12 per cent increase granted as a result of the settlement in the first month of this year. Similarly, the mountain differential remained 60 cents per basic day for freight service right up until 1953, and was increased by 12 per cent or 7 cents in that year. Again, it will have been increased by a total of 12 per cent, the cumulative wage increase agreed upon this year.

12. In all respects, therefore, and in all periods, from the beginning of the present century, arbitraries and special allowances or differentials, have been considered to be and have been a part of the wage packet granted the employees of the Canadian Pacific Railway who belong to or are governed by the schedule of my Brotherhood."

MR. LEWIS: I have no questions,
Mr. Chairman.

MR. SINCLAIR: I wonder if we

should take our recess now? I would like to look at this brief a little more carefully and if we recess now it will give me an opportunity to do so.

THE CHAIRMAN: Very well.

---Recess.

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---Upon resuming:

WILLIAM LESLIE DRUCE, recalled.

BY MR. SINCLAIR:

Q During my cross-examination of one of the earlier witnesses, Mr. Druce, called by Mr. Lewis, I made reference to the documents that the firemen's union had sent out to all the firemen in Canada. You are a part of the policy-making group of the firemen's union?

A Yes.

Q And you know of these mimeographed forms that were sent out by your union to firemen throughout the country?

A I get a copy of them all. I get a copy of all the issues that are circulated from the headquarters.

Q Yes; and that is the headquarters at Cleveland?

A Yes.

Q Did you ever see a document like this? I will just identify it and then I will read a part of it. This is a copy made of a document.

A I think I have seen that.

Q And do you remember this language?

"Firemen (helper) assigned to diesel locomotives in road service will complete this form after each

"trip or day's work. The purpose of this questionnaire is to develop the facts regarding work performed in the engineroom and in the cab. Upon completion of the questionnaire --"

And the following is underlined.

"It is imperative that all defects be reported on company's daily inspection or work report."

Do you remember that language?

A I have seen that or, I would say, something almost identical. I have so many of those circulars come to my attention that I could not say it was word for word, but I would say that is the document, though.

MR. SINCLAIR: I made reference to this in my cross-examination of one of the witnesses and having cross-examined on it I thought I had a duty to bring it to the attention of the Commission.

BY MR. SINCLAIR:

Q Now, Mr. Druce, on the matter of arbitraries, first let me ask if you have been around the railroad for a great many years?

A Yes.

Q Initially, I think we could agree,

engine crews had their own engines?

A Yes.

Q In the very early days some of them even put their names on them? The enginemen put their names on them?

A Yes, that is right.

Q And it was part of their work -- the work of the enginemen and firemen -- to get this engine ready -- do the work on it necessary for it to take whatever train they were working on across the road?

A That is correct.

Q They used to have to polish up the brass and shine up the outside and paint it and grease it and oil it and all that kind of thing?

A That is correct.

Q And as a first introduction to the work that firemen might do preparatory to going out on the road or in the final inspection of the engine as set out in the agreement was limiting what the company could ask firemen to do. This was delineated in the early schedule. Do you remember those early schedules where they delineated what the company could require the firemen to do in preparing the engine for the road?

A That was incorporated into the duties

of the fireman.

Q That is right, in the collective agreement?

A That is right; that would be a limitation of what could be expected of the fireman.

Q That is what the company could require the fireman to do?

A Yes.

Q And at that time they were not paid for it, were they, Mr. Druce?

A I would agree with you. They were not paid for that originally.

Q And then, around about the first world war, the firemen's union complained and demanded changes saying that this was not right that the fireman should have to do work and not be paid for it and they said that they should be paid for preparatory work and final inspection work on locomotives?

A I remember that, Mr. Sinclair. It was just a part of the job for so long.

Q And the position you were taking -- the firemen's union was taking -- was that they should be paid for the work the company required them to do?

A Exactly.

Q And as a result of that through negotiations and one thing and another the firemen were paid for preparatory

work and for final inspection work and it became a part of the collective agreements?

A Yes.

Q And this was put on an arbitrary basis?

A That is right.

Q And it stayed like that for a good many years coming down, I think, until around about 1949 when diesels were first introduced into road service on the Canadian Pacific and at that time, with the advent of diesels, there was a marked reduction in these preparatory and final inspection arbitraries for diesels?

A Yes, there had been. Those reductions in the amount of service required by firemen within that arbitrary was largely defined in the negotiations of 1915 -- they were concluded in 1915.

Q What I am talking about, Mr. Druce, is 1949. In 1949 through negotiations there resulted marked reductions in the arbitraries as applicable to diesel power?

A I cannot agree with you, Mr. Sinclair, in that respect because we were unable to determine -- at least the railway was unable to determine -- what services were required of the firemen as

preparatory services. They were exploring the general question at that time.

Q But there were some reductions as far as diesel equipment was concerned as to the arbitraries that were to be paid and it might well be that the company was still working on what they were required -- I am not disputing that -- but there was a reduction in the arbitraries with the advent of the diesels?

A I could not agree with that, Mr. Sinclair. I was General Chairman at that time and I endeavoured over quite a long period of time to obtain some definite statement as to what was required in the way of preparatory services of a helper on a diesel.

THE CHAIRMAN: I think the witness and you are not at one. Are you speaking about the preparatory duties -- the content of the preparatory and final duties -- or the limitation in the amount of time for preparatory and final duties for which the company was to pay?

MR. SINCLAIR: It is the latter. It was in 1949 -- that may be the difficulty.

THE CHAIRMAN: The witness is not following you.

BY MR. SINCLAIR:

- Q In 1949 the amount of arbitrary time that had been paid previous to that date to firemen was reduced if the fireman was working on diesel power?
- A Oh, yes, exactly; as an agreement.
- Q As an agreement?
- A Yes.
- Q And as you say, the company and the union were exploring just what they would require the fireman to do with respect to diesel power in the way of preparatory and final inspection?
- A That is correct.
- Q And then in 1954 again there was a reduction in the amount of time for which the company paid arbitrary allowances both preparatory and final on certain classes of power, both steam and diesel, in certain types of services?
- A Yes. I was not involved in the negotiations but our records indicate that was agreed to.
- Q And then, in 1956, the company said what they would require of firemen in taking over a diesel at the shop track and in the same year they served on your union a demand for revision of these arbitrary allowances, correct?
- A That is correct.

Q And I think we could agree, Mr. Druce, that what the firemen's organization want is to be paid for the work they are required to do?

A The question, evidently, that you ask me there is on a piece-work basis.

Q What I ask, Mr. Druce, is that I think we could agree that the firemen on the Canadian Pacific Railway Company want to be paid for the work they are required to do. That is the purpose of the firemen you represent?

A Well, yes, they would want to be paid for the work they do, yes.

Q For the work that the company requires them to do?

A That the company requires them to do and what their responsibilities require them to do.

Q Well, the responsibilities are fixed by the company?

A Well, yes. Of course, the train logging rules are also addressed to the employees together with the company.

Q We could agree, Mr. Druce, also that it is only reasonable that people should be paid for what they are required to do and they should not be paid for what they are not required to do. That is a principle that I think you and I

could agree upon?

A Yes, I could agree with you in that respect.

Q Now, on the mountain differential, I think that you said that earlier it was a plus factor in certain territory. That is how it originated on the Canadian Pacific Railway?

A Yes.

Q In fact, then it was called the Mountain Division of the Canadian Pacific Railway, was it not?

A Yes, the Mountain Division.

Q And then around 1918, I think it was, came the McAdoo Award and it had in there a relationship to a differential being paid where the grades exceed 1.8 per cent. Do you remember that?

A That is in the McAdoo Award. The McAdoo Award took that from the arbitrations of 1915 -- which were concluded in 1915.

Q In 1915 it was set out that a differential would be paid where the grades exceeded 1.8 per cent?

A 1.8 per cent or above.

Q 1.8 per cent or above?

A Yes.

Q And at that time the power was steam? Steam power?

A On the Canadian Pacific Railway, yes.

Q Yes?

A Yes.

Q And it was hand-fired steam, Mr. Druce?

A Hand-fired steam, yes.

Q And as a result of the fact, Mr. Druce, that the Canadian Pacific had previous to that been paying a mountain differential by territories, even though the grades are not in excess of 1.8 per cent -- for instance, over the whole of the territory, the Mountain Division on the Canadian Pacific Railway -- nevertheless that remained as totally mountain differential territory?

A Yes, by agreement.

Q Yes; and where other territories came in 1.8 per cent was the dividing line between the mountain rates and the valley rates?

A Yes.

Q And down through these years, Mr. Druce, there has been no investigation or appraisal of the work of the firemen in mountain territory or valley territory or between these territories and other territories on the system?

A Not that I know of. The work factor in determining the wage question was never to my knowledge an important consideration because in the old

mountain differential the same rate of pay or the same differential was allowed a fireman on a very small engine as was allowed on a very large engine. Tractive effort was not a question. It was rather an average across the board differential.

Q You are not going to suggest to this Commission that if you took a shallow fire-box on a light engine and hand-fired it up a grade that that would be any less difficult than firing a heavier engine with a deep fire-box and somewhat better conditions for the fireman in his hand-firing technique?

A Well, I could only repeat that the differentials were across the board in that territory and not in relation to the size or the tractive effort of the locomotive.

Q Are you suggesting that tractive effort is related to the work of the fireman and that that is what governs whether his pay should go up or down?

A No, weight on drivers is the factor that determines the wage scale.

Q There is only one other question I would like to put to you, Mr. Druce, as a senior member of long standing of an organization and that is this. Would you agree that a man in train

service who is unwell and in that respect presents a hazard should be removed from train service?

A If the man presents a hazard I would say that having regard to the responsibilities of a fireman that he should be removed if he were a hazard.

Q An engineman?

A Yes.

Q He should be removed if he presents a hazard -- if he is unwell?

A Oh, definitely.

MR. SINCLAIR: Thank you,
Mr. Druce.

MR. LEWIS: I have just two or three questions, Mr. Chairman.

BY MR. LEWIS:

Q Mr. Druce, Mr. Sinclair said to you -- or reminded you -- that in 1949 there were reductions in the amount of time allowed for preparatory and final arbitraries on diesels. Do you remember that? I think you will recall that you agreed with him?

A Yes.

Q Do you remember, since you were General Chairman at that time, whether there was any change in the basic rate at the same time?

A There was a change in the basic rate applicable to diesel locomotives and other considerations making a wage package at the time.

Q The pay for diesels -- for work on diesel locomotives -- prior to that time was based on what rate?

A It was based on the oil or electric rate.

Q And as a result of the negotiations in 1949 when the amount of time for the preparatories on diesels was reduced on what rate was work on the diesels based?

A It was brought up to the coal rate.

Q Now, Mr. Sinclair also said to you, Mr. Druce, that sometime in 1956 the company delineated the work which the fireman was supposed to do on diesels when they are taken off the shop track, if I remember correctly, and you agreed with him. Do you remember that?

A Yes.

Q Do you remember that question?

A Yes.

Q Do you by any chance know how that delineation was made?

MR. SINCLAIR: Well!

THE WITNESS: No.

BY MR. LEWIS:

Q Have you ever seen this --

MR. SINCLAIR: Now, you have the answer. He said, "No," in reply to your question. He does not know how the delineation was made.

MR. LEWIS: My learned friend brought this on. If he will just agree with me on this simple thing which he left confused, I will have no further questions.

MR. SINCLAIR: I did not leave it confused.

MR. LEWIS: Yes you did.

THE CHAIRMAN: Now, gentlemen.

MR. LEWIS: It is not of great importance, but I think the record should be clear. He said to this witness that in 1956 the company delineated the functions of a fireman on diesel engines when they were taken off the shop track and in the same year the company made a request from the Brotherhood to remove its arbitraries -- or words to that effect.

The fact, as my learned friend well knows, is that the request for the removal of the arbitraries was made in February of 1956 in the total counter-proposal of the company whereas the alleged delineation of the work the fireman was supposed to do was set out in October 1956

as shown by Sheet No. 6 and Sheet No. 10 of Exhibit 7, which is before the Commission.

MR. SINCLAIR: I do not know that I set any date. I said it was in the same year.

THE CHAIRMAN: All we are interested in is the fact.

MR. SINCLAIR: My learned friend checked my question and I think it is completely accurate in fine detail, if I may put it that way.

THE CHAIRMAN: Well, gentlemen, does that clear up the matter?

MR. LEWIS: Yes, I just wanted to make sure it was clear on the record that it was not the delineation that preceded the demand but the demand which preceded the delineation of the services which were supposed to justify the demand.

THE CHAIRMAN: So any confusion has been dissipated?

MR. LEWIS: I do not flatter myself, Mr. Chairman, but I hope so.

THE CHAIRMAN: Very well.

BY MR. LEWIS:

Q About this mountain differential, Mr. Druce, do you know whether the Brotherhood of Locomotive Engineers enjoys a mountain differential higher than the valley differential?

MR. SINCLAIR: Before the witness answers, I think we had this earlier. Mr. Lewis, I believe, brought this up the other day. When this matter first came up I think the Commission ruled that under its terms of reference such a question is irrelevant to these proceedings. I think if the Commission will turn up the Order in Council it will see that it is limited in this matter, and that would be my submission. I think that was also the view of the Commission when Mr. Lewis first raised this subject many weeks ago. The other day when he raised it I did not object.

MR. LEWIS: Let me say this, Mr. Chairman; I can appreciate my friend's position but if it is the case that the engineers and the brakemen -- the Brotherhood of Engineers and Brotherhood of Railway Trainmen -- that both organizations and their members now enjoy a mountain differential, with great respect I would submit that it seems to me this is a matter which this Commission cannot entirely ignore whatever its conclusion may be; because it is as obvious as the fact that today is Wednesday that if this Commission recommended that this mountain differential be brought down to the rate of the valley differential for firemen, that in fact the

Commission will have made a decision applicable just as much to the engineers and the brakemen. In fact, that will be the case except for economic strength.

THE CHAIRMAN: My recollection is not good. Of course, one cannot possibly keep all of these points in mind over a period of sixty-odd days. I cannot recall excluding anything. We may have expressed an opinion as to the relevancy of this subject, but at the same time I would think it is a fact which we can consider.

MR. SINCLAIR: I would be prepared to state to the Commission and agree with my friend that at the present time there is a differential to enginemen and to brakemen, if my friend at the same time is willing to agree with me that the company did propose revisions for those classes of employees on account of changed conditions which, because of the lapse of time and the finalizing of the contracts, are not open at present but could be opened at the next contract revision.

THE CHAIRMAN: Did we not have all of this stated before?

MR. LEWIS: I agree with my friend on both points and I think that is why it is relevant to the Commission.

HON. MR. McLAURIN: That is already on the record. We have had all of this before. I was looking into this. You already have this all on the record now.

MR. LEWIS: You may step down, Mr. Druce.

Mr. Philip George Fraser is my next witness, Mr. Chairman.

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PHILIP GEORGE FRASER, sworn.

EXAMINED BY MR. LEWIS:

- Q Mr. Fraser, you informed me that you are now an engineer in passenger service with the Canadian Pacific Railway?
- A Correct.
- Q And that you joined the Canadian Pacific Railway in February 1913 as a fireman. You joined the Canadian services in 1916 and when you came back from the war you went back to work for the Canadian Pacific Railway as a fireman and either in 1920 or 1921 you were qualified as an engineer?
- A Right.
- Q Is that right?
- A Yes.
- Q And that in 1942 -- presumably, Mr. Fraser, because of the intervention of the long depression of the thirties -- you were in 1942 and as late as 1942 set up as an engineer and have been running as an engineer ever since?
- A That is correct.
- Q You also informed me that in 1951, in connection with the new rule book which then came into effect, you were a rules instructor for some eight or nine months, is that correct?
- A Correct, sir.

Q And what is your record as to demerits with the Canadian Pacific Railway Company, Mr. Fraser?

A Well, I had a look at it not too long ago and it is pretty good. There were possibly 30 demerit marks in about 43 or 44 years.

Q Mr. Fraser, I would like you to tell the Commission about an incident which occurred to you in March of this year when you were engineer on passenger train No. 801?

A Well, on March 6 I was engineman on train No. 801, in westward direction for Hamilton. We left the Union Station at 6.45 p.m., proceeded to Bathurst Street, where a stop was made. On track No. 1 we received hand signals from the switch-tender to proceed and acknowledged same by Rule 14-G.

Q What is that?

A Two blasts on the whistle. Canadian National Railways engine -- I am not quite sure of the number but it was a 3400 -- was standing on track No. 2 at the stop board when I had stopped there. These switches down there are hand-thrown. The switch was against me and as I stopped the switch-tender came out and lined the switch and gave

me a proceed signal.

Q In order for the Commission to follow the rest of what you have to say, perhaps you would explain what is the relationship between tracks No. 1 and No. 2. Do they run parallel?

A Well, tracks 1 and 2, when they come down about two-rail lengths west of the stop board they converge into one track.

Q All right?

A So, when I got the proceed signal I started out. At the same time the Canadian National Railways engine was alongside of us here.

Q On which side of your engine?

A On the left-hand side. He was on the fireman's side.

Q Yes?

A He mistook the hand signal which was for me and started the engine with the result that when he saw he had made a mistake he hocked her out and tried to get away from me and the result was that the 8400 we had -- I am not sure of the number but it was a road switcher type, an Alco unit -- contacted the rear of the tender of the 3400.

Q Did you see the Canadian National

Railways engine start on track No. 2?

A I was looking directly ahead because, as I say, the switch-tender is there and it is all hand-thrown switches. The fireman called out to me, "Soak her."

Q Yes?

A We had gone down to the fouling point by this time and due to the fact that the engineer on the Canadian National Railways engine hocked her out -- that is just a slang term we use; it means he pulled her out -- he got away but not far enough and as I say, the result was I applied the brake in emergency and we punched three or four holes in his tender.

Q When did you apply the brake in emergency?

A Immediately when the fireman noticed. This was about 6.45 or 6.50 p.m. on March 6, and so it was dusk. Two engines were standing alongside of one another and the grade was such and all he would have to do would be to release his brake and the engine would move itself.

MR. LEWIS: That is all,
thank you, Mr. Chairman.

THE CHAIRMAN: Mr. Sinclair?

BY MR. SINCLAIR:

Q Just a few questions, Mr. Fraser. In this incident when the switch-tender gave the proceed signal did not the Canadian National Railways engineer mistake the proceed signal that was given to you as being one that was given to him?

A That is what I already stated.

Q Yes; and actually the signal was for you and you were moving and he should have remained where he was?

A Right.

Q And do you know who got the signal on the Canadian National Railways engine? Was it the engineman himself or was it called to him by his fireman?

A I could not say.

Q From the point the switch-tender gave your signal, which side of the Canadian National Railways engine would be closer to the switch-tender, the left or right side?

A The right side.

Q Your right side?

A Of the Canadian National Railways engine.

Q Yes?

A It would be on the right side of the

Canadian National Railways engine.

Q You were on the right side?

A No -- wait a minute -- you said which side would be closer for the signal. He was to the north of No. 1 track. Now, the track has a slight curvature and converges into one track. He was to the north of the switch. He came out and threw the switch and gave me the hand signal.

Q And you started to pull ahead?

A Yes.

Q And after you got going a bit the Canadian National Railways engine came ahead too?

A Yes.

Q And I asked if when the switch-tender relayed the signal to you the Canadian National Railways engine had not observed your engine standing there -- he started too, did he not?

MR. LEWIS: That is what he said.

BY MR. SINCLAIR:

Q Well?

A It was right alongside of me and I do not know why he did not see it. I blew two blasts on the whistle.

Q Why did he move, then?

A I do not know. Ask him, don't ask me.

Q He should not have moved?

A No.

Q You gave a warning that you were going
to proceed?

A Absolutely, yes.

MR. SINCLAIR: That is all, thank
you, Mr. Fraser.

MR. LEWIS: My next witness is
Mr. Eugene Desbois.

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EUGENE DESBOIS, sworn.

EXAMINED BY MR. LEWIS:

Q Mr. Desbois, you informed me that you now work as fireman on the spare board out of Chapleau, Ontario?

A Yes, sir.

Q And that you joined the Canadian Pacific Railway on July 4, 1951?

A Yes.

Q Did you join as a fireman or labourer?

A I joined on June 2 as a labourer and my seniority as a fireman is July 4.

Q You told me also that you have passed your first and second of the series of mechanical examinations but not yet the third?

A That is correct.

Q In fact, you informed me that you had the bad luck to write -- or start writing -- your third series of examinations just about when the mechanical examination book was recalled?

A That is right.

Q And you are waiting now for the revised one?

A That is correct.

Q And your record with the company is what? Have you received any demerit marks?

A No. I got a caution one time.

Q A what?

A A caution.

Q But no demerit marks?

A No.

Q Mr. Desbois, you had an experience which occurred at **Eureka** in March of this year?

A That is correct.

Q I would like you to tell the Commission about it. What date in March was it, do you remember?

A I am pretty sure it was the 31st of March -- around about the 31st of March.

Q Just speak up a little bit, Mr. Desbois. Were you on a train, or what?

A I was on a freight train -- a four-unit diesel train.

Q Do you remember the number of the train?

A The number was No. 90.

Q Do you remember where it was coming from?

A From Chapleau to Cartier. We were pulling in the siding for a meet at Eureka and the siding at Eureka makes a left-hand curve and I noticed something yellow up the siding and I thought maybe it was a motor car so I hollered at the engineer that there was a motor car on the passing track.

Then, I stood up and took a better look at it and I noted it was a lorry or a push-car -- whatever you want to call it -- loaded with furniture and then I told the engineer what it was and the man who was unloading the furniture got off his car and started pushing it to get it into the back track -- to get out of our way.

Q When you first called to the engineer that you thought there was a motor car there, did he or did he not do anything?

A Immediately when I hollered at him he proceeded to apply the brakes and he stopped the train. Then, when I told him he was going into the back track he released the brakes and prepared to start again but then when he got on the frog --

Q When who got on the frog?

A The sectionman.

Q The sectionman with the lorry?

A Yes. The push-car derailed so I hollered to the engineer again not to move the train because he had derailed. Then the engineer reapplied the brakes and the brakeman and I went up to help him rerail his lorry.

Q Help whom?

A The sectionman.

Q Was the sectionman alone when you got there?

A No, the sectionman had a child with him. I do not know if it was his child or not. The child was too young to determine whether it was a little boy or a little girl and the child was on the lorry. Going around this left-hand curve on the road switcher it was impossible for the engineer to see this.

Q Was it on your side?

A Yes.

Q Did you have the head-end brakeman in the cab?

A Yes, the head-end brakeman was in the cab. He just came into the cab after lining the switch for the passing track and he was inspecting this train which was coming in on the curve.

Q Now, Mr. Desbois, you had another incident about which I should like you to tell the Commission which happened in the Chapleau yard -- in the yard at Chapleau. Do you remember that?

A That was on April 2.

Q Of this year?

A Yes, of this year. I was working the 4 to 12 shift in the yard and we were backing in, pushing two cars and a van.

Q Do you remember when this occurred approximately?

A At approximately 4.30 in the afternoon.

Q And you said the engine was pushing two cars and a van. Where was it in relation to the engine?

A The van was next to the engine and then the two cars.

Q You were in yard service at this time?

A Yes.

MR. LEWIS: He is on the spare board now, as I indicated, to take his turn.

BY MR. LEWIS:

Q Yes, Mr. Desbois?

A The switchman was riding the front car and as we were backing in I noticed an arm go out like this but I was not sure we were getting a washout or what it was so I immediately hollered to the engineer that I thought we were getting a washout from behind so the engineer immediately applied his brakes and stopped the movement. Upon investigation we found that the yard maintenance crew were changing steel behind us.

Q Changing steel on what?

A Changing the rails on the tracks we were on.

Q And you said behind you; do you mean behind the engine or cars?

A Like, in front of the cars.

Q In front of the cars as you were backing in?

A Yes.

Q The switchman, you said, was on the lead car?

A Yes, on the leading car.

Q Was he or was he not able to see the men working?

A Well, I imagine he could see the men working because he was right at the end of the train, but he could not relay a signal to the engineer because going around the curve he had momentarily disappeared from sight.

Q And on what side of the lead car was he on as you were backing into this track?

A On the engineer's side.

Q But you had just come over a left curve or a right curve?

A Backing up it would be a left curve.

Q Now, as to the engineer himself, could he or could he not see what was taking place?

A No, he could not see.

Q How were the van and the cars attached to the end of the engine?

A They were attached to the back end of the engine.

Q To the cab end?

A Yes.

Q And the van came first and then the two cars, you said?

A Yes, the engine, the van and the two cars.

Q And can you remember how far away in terms of feet or car lengths -- whichever you find it easier to estimate in -- how far away from these men working on the rails you were or the lead car was when the engineer stopped the movement?

A I would say the lead car would be between two and three car lengths from the men working when the movement was stopped.

Q Can you remember whether the engineer whistled at all -- used the whistle or rang the bell -- or anything?

A No, he did not because he did not know what was happening behind and when I told him I thought we were getting a washout he immediately applied the brakes on the yard engine and the whistle was up in the air so he could not very well apply the brakes and blow the whistle at the same time.

MR. LEWIS: That is all, thank you.

THE CHAIRMAN: Any cross-examination?

BY MR. SINCLAIR:

Q Mr. Desbois, this washout you got, was that from the maintenance gang?

A Yes, it was from the maintenance gang, but I cannot say whether it was from the foreman in charge or one of the men. I just seen a man's arm going like this.

Q It was the man the crew had set up as a lookout?

A I could not say he was set up as a lookout or whether he was working or not.

Q You do not know?

A No, I do not know.

Q And you were pushing three cars?

A Two cars and a van.

Q You were pushing two cars and a van which were attached to the cab end of your diesel?

A Yes.

Q It was a diesel, was it?

A It was a diesel, yes.

Q And where were the other two members of the yard crew?

A I could not say where the other two members of the yard crew were.

Q Were they ahead of the movement?

A In yard service there is one man that follows the engine and there is a man who is usually working out in the field and the other one is --

Q The foreman?

A Yes.

Q They were not with you -- with your engine -- at this time? There was just one of the crew --

THE CHAIRMAN: He said it was the switch-tender.

BY MR. SINCLAIR:

Q Is that right?

A There was only the one switchman.

Q That is a yard man?

A Yes.

Q You are using the term "switchman" to mean a member of the crew -- that is, a part of the yard crew working this engine, is that right?

A Yes.

Q He was the only one of the yard crew who was with your engine at the time?

A The other two members of the crew were somewhere around there.

Q But you do not know where?

A No, I do not know just where they were positioned.

Q And you said the man who was one of the yard men -- you called him the switchman and if you do not mind I will call him the yard man -- was riding the point of the movement as you were pushing it ahead?

A Yes.

Q Was he up on top?

A Riding the side of the car.

Q Riding the side ladder?

A Yes.

Q On the engineman's side?

A Yes.

Q And I think you said he disappeared from view momentarily?

A Yes, that is right.

Q And when he disappeared from view did the engineman set up the brake?

A No, because when you back into the yard there is such a short time -- maybe a few seconds or so -- he would not have time to set up a brake anyhow.

Q But in this move the man who was controlling the movement -- that is the man on the point controlling the movement -- did disappear from the view of the engine crew?

A That is right, after giving the signal to back up he disappeared from view.

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Q You are familiar with the rules, are you not?

A Yes.

Q In that situation the rules require the engineman to stop, do they not?

A As I say, he disappeared from view so momentarily that you would not have time on a switching movement in a yard -- when you turn into the track

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if that happens he will disappear for just a matter of a second or two --

Q If he had climbed up on top he would never have disappeared from the view of the engineman?

A Possibly not.

Q And then he could have seen the men as well?

A Maybe he would have, too. It all depends --

Q Well, on this occasion do you know?

A I do not know.

Q If he were up on top and you only had two cars ahead of you and if he were standing on top of the first car, the lead car, the engineer could have seen him by looking back along the cars, could he not?

A He may have.

Q Could he have? Do you think he could?

MR. LEWIS: All he said --

THE WITNESS: I could not be sure because I was not on that side.

MR. SINCLAIR: What was that counsel said?

MR. LEWIS: It is not on the record; it was to myself.

THE CHAIRMAN: Gentlemen, there is getting to be too much of this. We must carry out the proper procedure and there is

a reason for it.

MR. SINCLAIR: I heard a remark made by counsel which I think is very improper, Mr. Chairman.

MR. LEWIS: I am not going to take the time to discuss this at length, but I do not think my friend can sit in judgment about propriety so readily.

MR. SINCLAIR: Well, I have never made a remark that would affect an answer given by a witness.

THE CHAIRMAN: Gentlemen, I think we will adjourn for ten minutes.

---Recess.

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---Upon resuming.

THE CHAIRMAN: All right,
Mr. Sinclair.

MR. SINCLAIR: I have a few more
questions, Mr. Chairman.

EUGENE DESBOIS, recalled.

BY MR. SINCLAIR:

Q Mr. Desbois, you said that in March
when you were coming in for a meet at
Eureka, Ontario, you saw something on
the tracks. I think at one time you
said it was a push-car or a motor car
or a lorry. What you mean is that it
was a sectionman's car which has a
motor on it?

A No, when I first seen it I just seen
something yellow. There is a bit of
a knoll there and the track curves and
I just seen something yellow over the
top of the knoll. I was not sure
whether it was a motor car, a push-car
or a hand-car.

Q You did not know whether it was a
sectionman's car?

A It could have been; or, a maintenance
man's car.

Q But it was on the railway?

A Yes.

Q It was not an automobile that you

thought you saw?

A Oh, no.

Q Then as you went on a piece it was discovered by you that it was a trailer-- a sectionman's trailer -- was it not?

A It was a push-car. It has four wheels and a motor and a handle-bar.

Q And the man in charge of it was alone? There was only one man?

A Yes.

Q And he was moving furniture?

A Yes, he was loading or unloading.

Q Do you mean household goods that belonged to him?

A Yes, I imagine so. A sectionman moves his own furniture.

Q I mean, he was not moving company furniture?

A No, I do not think it would be.

Q And he had this out on the passing track?

A The car was stopped on the spur -- the box car that is -- and his push-car was on the passing track.

Q And he was unloading this furniture onto the push-car and he was alone with this push-car on the passing track?

A He was alone, that is right.

Q Did you talk to him? In other words,

did you know his name?

A No, I didn't. All I did was help him rerail the push-car and I went back to engineroom.

Q There was no other sectionman with him to assist him with the movement of his car?

A I seen none.

Q You said there was a little child with him?

A Yes, that is all.

Q And that is all?

A Yes.

Q You were on train No. 90; that is what class of train?

A A fourth-class train.

Q And this was an assembly meeting you had at Eureka?

A No, it was an order.

Q There was an operator on at Eureka?

A No, only a section crew.

Q A sectionman?

A A section crew.

Q And do you know whether this sectionman had ascertained before using the passing track whether there were any trains to come in for a meet or anything of that nature?

A I do not know; I could not tell you that.

Q Where had you picked up the order for the meet? Where did you receive it?

A I am not sure where we picked it up. I am not sure whether it was Ramsay or not.

Q Was that some miles away?

A A few miles away -- but I am not sure where we picked up the order now.

Q And you say as you were coming in into the passing track the head brakeman was on the left-hand side making a running inspection of the train?

A That is correct.

Q And as he did that, did he glance ahead or continue to look back?

A He continued to look back.

Q He did not glance ahead at all?

A No, I was watching the head end.

Q That was a deal you had between you?

A No, it was not a deal we had, but he could not watch all the cars if he were looking behind and ahead at the same time. He only has the one set of eyes.

Q When you make running inspections do you just look back and not glance ahead at all?

A Well, sometimes I will look ahead, sure.

Q If it is necessary to do so?

A That is right.

MR. SINCLAIR: Thank you,
Mr. Desbois.

MR. LEWIS: Thank you, Mr. Desbois.
You may step down now.

I just have one more witness who
I think will be a brief witness, sir, and
then my evidence in Toronto is complete. I
would call on Mr. L. D. Scott. What do the
"L" and "D" stand for, Mr. Scott?

MR. SCOTT: It is L. W. Scott, sir.
Lawrence William Scott.

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LAWRENCE WILLIAM SCOTT, sworn.

EXAMINED BY MR. LEWIS:

Q I hope, Mr. Chairman, the Commission will bear with me a little. I had not met Mr. Scott nor have I talked with him. I am going by some other notes.

I understand, Mr. Scott, that you joined the Canadian Pacific Railway Company very recently, on June 22, 1955, is that right?

A Yes.

Q And that you work out of Windsor?

A Yes, sir.

Q You were a shop man or shop labourer, I suppose that is?

A Yes, in Windsor.

Q From June 22, 1955, to May 7, 1956?

A Yes.

Q And on the latter date, namely May 7, 1956, you were promoted to fireman?

A Yes.

Q Is that right?

A Yes, that is right.

Q And I understand also that you have not had any demerits in your short history with the company?

A No.

Q Now, you had an incident happen to you in January of this year. Was it in the Windsor yards?

A Yes, it was.

Q Will you tell the Commission about it?
Do you remember what date in January?

A Well, it was --

Q Speak up a little so everybody can
hear you, please.

A Well, it was on January 23 at
approximately two o'clock in the
morning.

THE CHAIRMAN: I cannot hear
you down here, Mr. Scott.

BY MR. LEWIS:

Q Please speak up, Mr. Scott.

A It was at approximately two o'clock
in the morning, sir. We were making
a forward movement onto No. 2 track.

Q Making a forward movement onto No. 2
track?

A Yes, sir.

Q Your engine was ahead and you had some
cars behind?

A We were light.

Q It was a light engine?

A Yes. In this case No. 1 switch was
against us.

BY THE CHAIRMAN:

Q Mr. Scott, my hearing is normal, I
think but I cannot hear you at this
end of the table. Can you hear me?

A Yes, sir.

Q Will you speak up so I can hear you, please?

A Yes, sir.

BY MR. LEWIS:

Q Would it help you if you were to stand up, Mr. Scott?

A I think I will be all right. No. 1 switch was against us, so we had to stop foul of the main lead during this time.

Q What do you mean you "had to stop foul of the main lead"?

A No. 2 switch was against us and No. 1 was against us, and we wanted to go down No. 2.

Q No. 1 was against you and you wanted to go straight down to No. 2?

A Yes, No. 1 and No. 2 are together, like.

Q And what did you mean when you said you had to stop "foul of the main lead"?

A We had to stop foul of the switch on the main lead to be able to throw the switch to go down No. 2 track.

Q Do you mean you had to stop clear of this switch or you had to clear the switch?

A We had to clear the switch.

Q Did you stay foul of the main lead?

A We had it at the side.

Q I am not sure I follow that. Perhaps

it will become clear as we go along.

Go ahead. Was there another switch behind you that you were foul of?

A Yes there was.

Q Pardon?

A There was the main track.

Q Pardon?

A The main lead.

Q Was there a switch there that you were foul of?

A Pardon me?

Q Take a drink of water, Mr. Scott, and perhaps that will help you.

A We were backing up the lead first and proceeding to go down into No. 2 when we backed up clear of the No. 1 switch on the main track.

Q Yes?

A In which case we had to open it to go down into No. 2 and the switch there is operated -- No. 1 and No. 2 are combined, like.

Q There is one switch for the two tracks?

A Yes, in which case No. 1 was against us.

Q Yes?

A And we had to stop.

Q Yes?

A So the yard man could get off and throw the switch.

Q Yes?

A But before he did that he had to clean the points out where the snow was packed in there.

Q Yes?

A And while he was doing this he was cleaning it out -- naturally he did not give me no signals or anything and the next moment he was coming over to the other side.

Q The switch was on your side?

A Yes.

Q And he cleaned the switch and went over to the engineer's side?

A Yes, and I told the engineer. He could not see him. He was not in sight.

Q What did you tell the engineer?

A I told him that the switchman was walking over on his side.

THE CHAIRMAN: Can you hear him?

MR. LEWIS: Oh, sometimes.

BY MR. LEWIS:

Q Yes?

A The switchman was walking over to the engineer's side. Naturally he would not make a move. In the meantime there was a yard foreman -- another yard man -- and he closed the switch against us from the rear and gave another crew that was in the clear

on the other side of the crossover the high-ball to come over.

Q Was this yard man a part of your crew?

A Yes.

Q He was a part of your crew?

A Yes.

Q And he gave a signal to another crew?

A Yes, to another crew which was hanging onto the ladder of the side of three cars in the clear on the other side.

Q That was another engine -- another engine or an engine and cars in the clear on the other side?

A Yes.

Q Go on.

A And I looked around. When I did not see the yard man in front of where he was I looked around and saw the yard man at the back busy giving a high-ball and I told the engineer when the cars were coming down to get out of the way.

Q Yes?

A As soon as I told him to get out of the way he jumped up and the cars took the storm window off.

Q I have not got that, I am afraid. You were standing -- if I may -- on the lead at this time, were you?

A No.

Q Your light engine was standing where?

A We were backing up the lead in possession of the switch to be thrown into No. 2.

Q Yes? And you were at that time standing still?

A Yes, we were stationary -- standing still.

Q And the yard man -- let me go over it with you -- and the yard man went and threw the switch?

A He had to clean it.

Q He cleaned it first and then he threw it?

A Yes.

Q And then you saw him go over to the engineer's side and you told the engineer about it, but he said he could not see him so that your engine still remained standing and you did not move?

A That is right.

Q And then you looked back and you saw this yard foreman giving a signal to another engine with some cars?

A Yes.

Q Is that right?

A Yes.

Q And that engine and its cars started to move, did they?

A I am a little mixed up here. Pardon me -- at the time I looked back the cars were coming on top of us. They

were coming down across the crossover down the lead in which our engine was foul of the main lead.

Q I see; your engine was foul of the main crossover switch. Is that what you are saying?

MR. SINCLAIR: He said the lead.

THE WITNESS: The lead.

BY MR. LEWIS:

Q These cars were coming down towards you?

A Yes.

Q And they were coming on the engineer's side or on your side?

A On the engineer's side. They were coming on top of the engineer. Our engine, you see ... (Witness begins to draw sketch).

Q Put it in words as best you can. Do not draw a sketch.

A No.

Q You were saying?

A To get to No. 2 switch we had to stop foul of the main lead.

Q I see; there was a main lead and you stopped foul of that?

A Yes, we cleared the switch but we were still out -- we were foul.

Q Part of you was foul of the main lead?

A Yes. And when the man gave the signal the cars side-swiped us and took the

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storm window off.

Q Took the storm window off the cab of your engine?

A Yes.

Q Is that right?

A Yes.

Q You were on a yard diesel, were you?

A Yes.

Q And I am asking you whether the cars came down the engineer's side?

A Yes, they did.

Q And could the engineer see them coming or not?

A No, he was concentrating on the forward movement.

Q He was looking back towards the engine, was he?

A Ahead of the engine.

Q Forward?

A Yes.

Q Waiting for the switchman?

A He was leaning out the storm window. He was ready for a signal from the yard man, you see.

Q To go forward?

A Yes -- which he did not get; so when I looked back and saw the cars coming he was leaning like that and I shouted at him to get out of the way and when he got out the cars came crashing into

the storm window and all the glass came in and I figured if he had been leaning where he was before he would have been hurt pretty badly.

Q What did he do when you hollered at him? Did he stand up?

A Yes.

Q Did he walk away from his seat or remain standing there or what?

A He started to walk away and just as he left the glass came falling down into his feet.

MR. LEWIS: That is all,
Mr. Chairman.

MR. SINCLAIR: Will you give me just a moment, Mr. Chairman? I am trying to figure out just what happened and I am encountering some difficulty.

BY MR. SINCLAIR:

Q Mr. Scott, it is a little difficult sometimes to put into words these movements, but as I understand what you said you were moving light?

A Yes, we were.

Q You had come down the lead and gone off the lead on a track a little bit off the lead where it branches off into two other tracks, Nos. 1 and 2, and you had pulled up the lead before

you were lined up to actually go completely clear of the lead?

A That is right, sir.

Q And instead of stopping on the lead until you could clear the lead you had actually started into one of these tracks when there was a switch against you?

A Well, as far as I know, it is regular procedure when you get a forward movement to go down another lead. You back up and stop clear. I think it is No.1 switch of the main lead. And then they open that and you come down clear of the other switch to make a forward movement.

Q Yes, I recognize that. You were still partly on the lead -- if I may use that word. You used the word "foul". You said you were foul of the lead because the switch that would have taken you clear of the lead was set against you?

A That is right.

Q And you had started your move up the lead before you were in a position to actually clear the lead and you stopped there while the yard man got out and cleaned the points and set the switch and started to move over to the

engineman's side to give the proceed signal, is that right?

A Yes, that is right; but I did not mention that before we can get down there we have to back clear of No. 1 switch up the main lead before we can proceed down into where we were, but that switch was open, you see, and nobody else could come over there.

Q All right, you were protected because the switch behind you was protecting your movement by being left open, correct?

A Yes.

Q And that switch cannot be closed until you are actually clear of the lead?

A That is right -- it should not be closed.

Q It should not be closed?

A Yes.

Q And on this occasion before you were clear one of your own crew did close it?

A Yes.

Q Is that right?

A That is right.

Q And that enabled this other movement to come down and side-swipe you, is that right?

A Yes.

Q Now, that is covered by a rule which is also in the Uniform Code of Operating Rules?

A Yes.

Q Do you know your rule book? Do you know this rule I am making reference to in Exhibit 27 in these proceedings? Do you have one of these?

A Yes.

Q Do you know it?

A Not too well.

Q Do you know this rule, Rule No. 104, the eighth paragraph, starting right here? Let us read it together. It says:

"When waiting to cross from one track to another and during the approach or passage of a train or engine on tracks involved, all switches connected with the movement must be secured in the normal position. Switches must not be restored to normal position until a movement is completed or clear of the track involved."

A Yes.

Q And if that rule had been lived up to in this case there would have been no side-swipe, is that right?

A That is right; but if I might state, we were making a forward movement and I was looking ahead at the time that this switchman in front of us cleaned

the points and when he went in front of the engine we lost sight of him and I figured he was going over to the engineer's side to give him the signal but when the engineer did not see him we did not move, you see, and that switch behind us, as far as I knew, was still open to us.

Q In other words, as far as everybody knew the rules were being lived up to and you were being protected?

A Yes.

Q And you had a right to stand where you were as long as you wished?

A As far as we knew, we were protected.

Q And that switch which was protecting you could not have been lined so as there could have been a conflicting movement until you were clear, that is correct, as far as you knew?

A Yes.

Q And on this occasion --

A Yes, when I turned around --

Q Just a moment, please. On this occasion one of your crew -- I think you said it was the foreman -- he actually lined the switch that was protecting you before you were clear, is that right?

A Yes, sir, that is right.

MR. SINCLAIR: Perhaps I have clarified it a little bit, Mr. Chairman, I hope I have but I do not know.

MR. LEWIS: That is all, thank you, Mr. Scott.

THE CHAIRMAN: That completes your evidence here. Now, Mr. Sinclair, what about you? Is there a gentleman by the name of Dowdall here?

MR. FRASER: Has your material come forward, Mr. Dowdall?

MR. DOWDALL: Not yet; it is being typed.

MR. FRASER: Thank you.

THE CHAIRMAN: What is your position?

MR. SINCLAIR: My position is that matters moved with expedition this morning to a degree that I had not contemplated and my position is that I do not contemplate having someone available to give evidence here. As a matter of fact, the man I would have in mind is not even in the city.

THE CHAIRMAN: Where does that leave us?

MR. SINCLAIR: That leaves us, sir, in this position. I discussed matters with my friend and suggested that I was going to try to have someone here so I could

use some of the time in making my rebuttal, but I think that the Commission do wish to continue some viewing here. There are, I think, two points that were covered and there is also this other job, sir, -- there is the dual control engine -- that both you, and I think Mr. Lewis, expressed a desire to see. Could we do that this afternoon if it meets with the Commission's commitments and desires? If so, I will have to get on the telephone.

---(Discussion continued but not reported at request of Chairman.)

---Following discussion:

MR. MUNDELL: Mr. Dowdall informs me that he will be ready to proceed this afternoon.

HON. MR. McLAURIN: What is he going to do; read a brief?

MR. MUNDELL: I believe so.

THE CHAIRMAN: We will now adjourn until 2.30 p.m.

---The Commission adjourned to meet again at 2.30 p.m.

Wednesday,

June 19, 1957.

AFTERNOON SESSION

---The Commission resumed at 2.30 p.m.

THE CHAIRMAN: Is Mr. Dowdall here?

MR. FRASER: Yes, sir.

MR. DOWDALL: Mr. Chairman and gentlemen of the Royal Commission, I wish to apologize if I caused you any delay, but the only reason is that I came down here with one copy of my brief and I did not know that extra copies were needed.

THE CHAIRMAN: That is all right, Mr. Dowdall; you are here now. I did not get your full name, Mr. Dowdall?

MR. DOWDALL: It is Daniel Fergus Dowdall.

THE CHAIRMAN: All right.

MR. DOWDALL: (Reading):

"Mr. Chairman and gentlemen of the Royal Commission: I am appearing before you on behalf of Locomotive Engineers, employed by the Canadian Pacific Railway Company, who have signed a petition which is attached herewith expressing their opposition to the removal of the Fireman/Helper from diesel locomotives in freight

"and yard service and have authorized me to make appropriate representation in the matter.

The Railway operates at all hours of the day and night and under climatic conditions varying from one extreme to another. Unexpected situations arise on nearly every trip and in fact it is very rare for the same conditions to occur on two successive trips, even on the same subdivisions; coupled with this, engine crews are being placed under constant strain because of the unpredictable actions of the public approaching and travelling over the thousands of railway crossings at grade.

A great deal of the business of the Railway is done, and in fact can only be done, by crews setting out or picking up cars en route and switching in villages, towns and cities. As a general rule it is at these points that mishaps are most likely to occur.

Other classes of employees as well as the public using railway facilities are usually engrossed in their own work and quite often overlook the fact that they might be in danger from moving equipment. No safety regulation or device has ever been effective in

"eliminating the danger of children wandering upon or playing on or near railway property, and there is ample proof to be found that in many cases the Fireman or Helper on the locomotive was the only one who saw and realized the danger in time to avert a mishap involving children, fellow employees and the general public. These situations usually arise when the rest of the crew are on the engineer's side engaged in the work required of them and the helper is the only one able to give strict attention to what is transpiring on the left side of the operation.

We believe that in spite of all that has been done and said in promoting safety in railway operations we are still a considerable distance from perfection in that respect. We believe that an engineer and helper in addition to the train crew in yard and freight service should be considered the minimum number required and to reduce the crew by removing the helper simply reduces the present margin of safety by 20 per cent, as the suggested action on the part of the Railway would reduce the crew from five men to four.

A freight engineer is often

"called upon to make his own meets on superior trains including first-class passenger trains and an error in his judgment could prove to be very costly in loss of life and equipment. The only manner in which a Fireman/Helper can gain the necessary training to become a competent and efficient freight engineer is through the medium of on-the-job experience and in our opinion this can only be obtained through several years of apprenticeship working as a Fireman/Helper in freight service.

In view of the foregoing, the engineers for whom I am speaking feel that the removal of the Fireman/Helper from diesel locomotives is fraught with danger to the general public and is adding a strain and responsibility for the engineers without consulting them as to the feasibility of their being able to safely and efficiently cope with dangerous potentialities resulting from such a move. We trust that the Commission will reject the Company's proposal to discontinue the employment of Helpers on diesel locomotives in freight and yard service."

THE CHAIRMAN: Thank you, Mr.Dowdall.

Are there any questions of Mr. Dowdall?

MR. LEWIS: I have no questions, sir, but perhaps for the record Mr. Dowdall should tell the Commission where he is from because I know he is not from Toronto.

THE CHAIRMAN: Yes.

MR. DOWDALL: I am from North Bay, and the men who signed these petitions are from North Bay, MacTier and Sudbury.

THE CHAIRMAN: Have you any questions, Mr. Sinclair?

MR. SINCLAIR: Just a brief one, Mr. Chairman.

BY MR. SINCLAIR:

Q Mr. Dowdall, would you be of the view that if another man was assigned to a crew that would increase the safety factor by 20 per cent?

A Well, I will tell you, Mr. Sinclair, I came down here to read this brief on behalf of a number of employees and I would have to answer the question for them and I do not think that would be fair.

THE CHAIRMAN: Well, Mr. Dowdall, you are just being asked your own view.

BY MR. SINCLAIR:

Q Yes?

A My own view -- well, I do not know.

It would certainly add to the safety.

Q If you put two extra men on would that increase it by 40 per cent?

A I am not prepared to say.

Q You do know of yard crews that work with a crew of four?

A No.

Q There are some. For instance, this Commission has been told about crews on the Dominion Atlantic Railway.

A Well, I have never seen that, sir.

Q Would you say that these yard crews were 20 per cent less safe than the five-man crews working, for instance, at North Bay?

A I would have to see them work in order to give an opinion on that.

Q If they had been working for some twenty-odd years with a four-man crew, would you not think that that was some evidence of their being able to handle the work with four men in a yard crew?

A I would think that the reason there were three men put there on other yard crews was because they were needed.

Q You would think so?

A I think that is the reason they are there. I imagine they would not have had that extra man years ago if he had not been needed.

- Q That is why you think he is there?
You do not think it has anything to do with the union contract or anything of that nature?
- A That is right, sir.
- Q You think that union contracts have nothing to do with how many men should be assigned -- collective agreements?
- A I do not think so.
- Q You do not think that collective agreements should delineate how many men are to be used? You do not think that it should be a matter for a labour agreement how many men should be on a job?
- A Well, labour agreements consist of a number of different things, sir.
- Q But in your view you do not think that is a proper matter for a labour agreement?
- A Oh no, I think it is a proper matter.
- Q You think it is a proper matter for a labour agreement?
- A Yes.
- Q Why do you think so?
- A Well, the labour agreement represents all men, not just one special group.
- Q Well, for instance, take the enginemen's agreement. Do you think it should say how many men should be on a train?
- A I think it should.

Q Does it? It doesn't, does it?

A No.

Q For instance, take the express messengers' agreement or the baggage men's agreement. Should it suggest how many men should be assigned, in your opinion?

A Well, you have to have some definite understanding.

Q By the way, are you a member of the lodge at North Bay?

A Yes, I am.

Q The enginemen's?

A Yes.

Q And were you a former member of the firemen's lodge?

A Yes, I was.

Q You were the local chairman?

A No.

Q You were the secretary, were you?

A No, I never held an office.

Q You did not hold an office?

A No.

Q What is the biggest industry you have in North Bay?

A Railroading, I would say.

Q Well, next to the railway?

A Well, there is no really big industry, sir. Johns-Manville have started up and Dupont have started a big plant, too, recently.

Q Have the enginemen suggested to Dupont or Johns-Manville how many men they should have on each machine?

A No, they have not; not that I know of.

MR. LEWIS: Do they have a railway?
I do not follow that.

MR. SINCLAIR: All the arguments counsel makes from evidence are made at the proper time.

MR. LEWIS: I just wanted to understand the situation. I just wanted to know in what way Dupont and Johns-Manville come in with regard to a railway.

BY MR. SINCLAIR:

Q Did you have a meeting before preparing this brief? Did Mr. Travers take part in your meeting? Do you know who Mr. Travers is?

A Not in that meeting. I have shown it to Mr. Travers.

Q And he has O.K.'d it?

A Yes.

Q And did he assist you in writing it?

A Well, I would say to a certain extent. I asked the man's opinion.

Q He is a foremr Canadian National Railways engineman, is he not?

A Yes.

MR. SINCLAIR: That is all the questions I have for this witness, Mr.Chairman.

BY MR. LEWIS:

Q What is Mr. Travers now?

A He is the Assistant Grand Chief Engineer.

Q Assistant Grand Chief Engineer for Canada?

A Yes.

Q How many Assistant Grand Chief Engineers are there in Canada?

A One.

MR. LEWIS: Thank you,
Mr. Dowdall.

THE CHAIRMAN: Thank you very much, Mr. Dowdall.

Does that finish the hearing for today?

MR. LEWIS: Yes.

THE CHAIRMAN: Then we are adjourned until Winnipeg on Wednesday, June 26.

MR. LEWIS: The hearing, I think, is on the 27th.

MR. FRASER: Thursday, June 27, and Friday, June 28, according to our schedule, sir. There is some viewing on the 27th.

THE CHAIRMAN: Do we have a note of the meeting place in Winnipeg?

MR. FRASER: The Court House -- the Law Court Building, I should say -- on

Broadway Avenue.

HON. MR. McLAURIN: Let us get
off to Keating Street, then.

THE CHAIRMAN: We will now
adjourn.

---The Commission adjourned at 2.50 p.m.
until Thursday, June 27, 1957, at
10.00 a.m. in Winnipeg.

**ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD
SERVICE ON THE CANADIAN PACIFIC RAILWAY**

56

PROCEEDINGS

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ROYAL COMMISSION ON EMPLOYMENT OF
FIREMEN ON DIESEL LOCOMOTIVES IN
FREIGHT AND YARD SERVICE ON THE
CANADIAN PACIFIC RAILWAY

Proceedings of public
hearing held at
Winnipeg, Manitoba, Thursday,
June 27, 1957.

PRESENT:

Hon. R.L. Kellock,	Chairman
Hon. C.C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A.R. Winship,	Asst. Secretary

APPEARANCES:

D.W. Mundell, Q.C., C.J.A. Hughes, Q.C.,	Representing the Commission.
I.D. Sinclair, Allan Findlay,	Representing the Canadian Pacific Railway Company.
David Lewis,	Representing the Brotherhood of Locomotive Firemen and Enginemen.

Thursday,
June 27, 1957.

56th DAY

MORNING SESSION

--- The Commission resumed at 10.00 a.m.

THE CHAIRMAN: We are ready to proceed. I understand that certain people wish to be heard. Would you call them please.

FRANK WALTERS, Sworn.

THE CHAIRMAN: Yes, Mr. Walters.

THE WITNESS: Mr. Chairman and gentlemen of the Royal Commission, I have been requested and authorized by a petition signed by a large number of yard foremen and yardmen employed by the Canadian Pacific Railway at Moose Jaw to present a brief explaining our reasons why we view with alarm the proposed removal of the helper on diesel yard engines.

As a yardman with over 37 years experience working afternoon, night and day shifts, I have gained some knowledge of the requirements in yard service.

Due to the nature of our work, switching and making up trains and switching and spotting cars on industrial and warehouse spurs, we are obliged to work outside in all kinds of weather. Many trains are on a definite time-table schedule, with only a limited time in the terminal and they have to be switched, bad order cars taken off, and other cars to be marshalled in certain specified order. We thereby are unable to stop work because of weather conditions, unlike many other outdoor occupations, who are able to take shelter in case of storm.

These last few years have seen many inexperienced men hired due to removal of senior men

by illness, retirement and other reasons. Too often these younger inexperienced men do not stay very long and there appears to be a constant movement of men quitting and men starting. Foremen manning yard crews are constantly being faced with the added responsibility of extra supervision over these inexperienced men besides attending to their regular duty.

A yard crew only consists of the foreman and two helpers, a bare minimum to perform the work; when inexperienced men are used added work is thrown on to the foreman and other helper.

And now with the proposed removal of the diesel helper the situation is viewed with understandable alarm by yard crews who have over the years depended on the fireman or diesel helper to watch the head end and also the left side of the engine for any conflicting movement on that side. This dependence on the fireman has long been recognized by the company.

For instance, last year a yard crew in Moose Jaw were working at a location where a curvature in the track made it difficult for the engineer to receive signals. For some reason the fireman did not notice the stop signals in time which were being given by the yard foreman who was ahead of the engine, with the result that the engine contacted another engine. For this mishap the fireman was given 40 demerit marks and the engineer 20.

Just recently the superintendents at both Moose

Jaw and Regina have issued bulletins that signals must be given direct to the engineer. As local yard chairman, yard crews working on freight shed job asked me what to do as at this location, track No. 1 barely clears the shed itself and there is insufficient clearance between Tracks 1 and 2. Before the issue of this bulletin signals were relayed to the fireman but after the issue of the bulletin I advised them to turn the engine before starting to switch that location and after completion of switching. While this solved the situation at that point it does not solve other situations which crop up.

For instance in the case of flat switching in yards where trains are switched and made up considerable dependence is placed on the diesel helper to keep a sharp lookout on his side. A yard engine is busily engaged in switching movements requiring movement first in one direction and then in the other. The engineer in order to be on the alert for signals given by the yard crew can only glance occasionally in the opposite direction to where the yard crew is giving signals, but the diesel helper is able to focus his entire attention in the direction in which engine is proceeding. In most yards the lead switches are on the engineer's side and the yard crew are working on that side giving signals so that the engineer has to give close attention to the yard crew.

But the diesel helper on his side has full

vision of the tracks connected up to the lead. His attention is not distracted by signals given by the yard crew. As sometimes happens, cars on these tracks are pushed too close to the lead for proper clearance and the diesel helper is able to warn the engineer to stop and avoid contacting the cars. Occasionally two trains pulling into the yard edge up close to the lead trying to get the rear end into clear and on stopping sometimes foul the lead. Here again the diesel helper on the yard engine is able to warn the engineer to stop.

In Moose Jaw the west lead of C yard is paralleled by two other tracks on the left side of the yard engine working on this lead. These two tracks are used by engines proceeding to and from their trains and also by yard engines. At a certain point, a little distance from these two tracks is located the yard offices where both yard crews and road crews obtain the information which they require.

Sometimes a man alighting from an engine may make a misstep and alight on the ground in front of the yard engine using this lead, but the diesel helper on that engine, being able to see what is happening, warns the engineer to stop. Last spring a man narrowly escaped injury when taking a step back to see better and was nearly knocked down by another engine but was saved by the alertness of the diesel helper at this location.

Over the years many similar incidents have

occurred but are never reported. A near-accident is not an accident. It is possible that now with inexperienced men working further incidents may occur.

When yard engines are switching or moving cars around yards other employees, familiar as they are with the danger of moving engines or cars, are so busily engaged in their work that they fail to notice other cars that are being moved. Also during their course of duty they may be required to cross many tracks. During the winter, having to wear heavy clothing and caps covering their ears, they fail to see and hear the movement of cars and engines and are unable to move quickly out of danger, so that it requires the constant vigilance of both engineer and diesel helper to avert accidents.

Then too in the case of yard engines switching industrial spurs and warehouse spur tracks, the necessity of the diesel helper is further emphasized.

In Moose Jaw we have three spur tracks which service the warehouse district. One is named H spur and has five public road crossings; K spur has four public road crossings and L spur has three public road crossings. Along these spur tracks are other tracks servicing either one or more warehouses. These may hold two or more cars.

These short spurs are connected to the main spur, sometimes leading off one side or the other. Yard crews spotting cars are sometimes required to make several switching movements in order to line

cars up in proper position as may be required by the warehouse concerned.

During these switching movements engine and cars may pass over a public road crossing many times so that a yardman is left on the road crossing to direct traffic while switching is in progress, with the result that traffic bunches up on each side of the crossing. While the yardman directing the traffic is on the engineer's side, the moment the crossing is partially cleared traffic starts to edge across from the other side and then the engine and cars reverse direction and many times cars and trucks would have been contacted if it were not for the diesel helper watching on his side of the engine. Sometimes an impatient driver starts across in spite of warning signals and shouts of the yardman on the crossing and in the confusion it is often the diesel helper who averts the accident by calling out to the engineer to stop.

Furthermore loading and unloading platforms are often on the diesel helper's side and although the warehouse men are warned that cars are being moved they often attempt to continue loading or unloading while cars are starting to move. The yard crew being on the other side are not aware of what is taking place but the diesel helper on his side can see what is happening and is able to prevent accident by calling on the engineer to stop.

At one location in Moose Jaw, the east end of

D yard, trains which pull into that yard from the west are required to double over the overflow of cars to another track. D yard was constructed many years ago when trains of 35 cars were usual so that the tracks will hold only about 46 cars. Trains arriving from the west often consist of 80 to 100 cars. After pulling trains into track and on nearing the east end of the track the head end brakeman alights from engine and lines switch to allow engine and cars to enter the east lead. He then stays on the diesel helper's side in order to relay signals to the diesel helper because on account of curvature of track the engineer is unable to see signals on his side and the other two members of the train crew are in position on the rear end. If there were no helper on the engine the engineer would be obliged to leave his controls and watch for signals on the left side, not a very commendable practice.

In spite of all the regulations issued grown-ups as well as children frequent the vicinity of the railroad. Children especially seem to have an irresistible urge to play on railroad property and it takes the constant vigilance of both the engineer and diesel helper to avoid accident.

For several years the Canadian Pacific Railway Company, by lectures, talks, pictures and bulletins have impressed on all employees the need for safety. The following appears on page two of the Uniform Code of Operating Rules:

"Safety is of the first importance in the discharge of duty".

Therefore in the interest of Safety First we respectfully ask that the diesel helper be maintained on all diesel engines. While it is true that the fireman's work, to give him his original name, is greatly lessened nevertheless the diesel engine is an inanimate thing, unable to move without a guiding hand for able to see without two pairs of human eyes to see for it.

BY MR. MUNDELL:

Q. What is your occupation?

A. My occupation is yard foreman. I have now retired.

Q. How many yardmen signed that petition?

A. Approximately 55 signed this petition.

MR. LEWIS: No questions.

BY MR. SINCLAIR:

Q. Mr. Walters, you wrote the Commission asking for leave to appear at these proceedings, but I just forget the date.

A. On June 4.

Q. Do you know a man by the name of Jones of London, Ontario?

A. No.

Q. Did you not send him a copy of your letter to this Commission?

A. No.

Q. I have a copy of Mr. Jones' letter to

this Commission and I would ask you to follow my reading of this letter with the letter you wrote and tell me whether it is the same as the letter you wrote on June 4.

A. Yes sir.

Q. I will read Mr. Jones' letter. It is addressed 855 Lorne Avenue, London, Ontario and is dated June 10. Of course you had your Moose Jaw address on your letter.

A. Yes.

Q. You headed your letter "Brotherhood of Railroad Trainmen" and he headed his letter "Brotherhood of Locomotive Engineers." This letter is addressed to Mr. Douglas Fraser, secretary of the Royal Commission, Room 95, Supreme Court Building, Ottawa, Ontario. The first paragraph reads:

" In the matter of the dispute between the Brotherhood of Locomotive Firemen and Enginemen and the Canadian Pacific Railway regarding the employment of helpers on diesels in freight and yard service, which is now being investigated by a Royal Commission -- "

Your first paragraph was the same?

A. Exactly.

Q. Then the second paragraph:

" On February 18th, 1956, a notice appeared in the Canadian Press which read in part:
'Public hearings upon these matters will be held by the Commission commencing Monday,

'March 4, at 10.30 a.m. in the Supreme Court Building, Ottawa. Persons or organizations wishing to bring information to the attention of the Commission should communicate with the secretary, Room 95, Supreme Court Building, Ottawa.'

A. Exactly the same.

Q. The third paragraph:

" I have been authorized to make representation to the Commission on behalf of the locomotive engineers employed by the Canadian Pacific Railway who have an interest in the matter."

Exactly the same?

A. Correct.

Q. The fourth paragraph:

" Therefore, I would appreciate being granted an opportunity to appear before your Commission to present petitions signed by locomotive engineers."

Then you go on?

A. That is exactly the same. In connection with that, may I speak?

THE CHAIRMAN: Certainly.

THE WITNESS: When I was requested to present the brief -- I have never presented to any Royal Commission and I did not know the procedure -- so I went to the local firemen's representative and asked him how I should proceed and he give me an outline of what I should put down.

BY MR. SINCLAIR:

Q. He give you the letter you wrote to the Commission?

A. A copy very similar to that.

Q. Were you directed by him also to appear here?

A. Yes sir.

Q. Was your lodge directed by its headquarters to appear here?

A. Well, I have a circular from the General Chairman and I quote one paragraph:

" I wish to advise that our organization is making every effort to cooperate in every way possible to assist the firemen in their case and I would suggest that all parties cooperate with the local chairman of the firemen's organization where possible."

Q. That is signed by the General Chairman of the Brotherhood of Railroad Trainmen, Canadian Pacific Prairie and Pacific Regions. Now, in your evidence or in your brief this morning, Mr. Walters, you made reference to a fireman who was involved in an accident at Moose Jaw for which he received 40 demerit marks.

A. Yes.

Q. And the engineman got 20?

A. That is right.

Q. Was the yardman disciplined in that case?

A. The yard foreman, being in charge of the

crew, was assessed 15 demerit for his responsibility as foreman.

Q. That was the Romanic case

A. Romanic was the engineer.

Q. The fireman in that case was told, was he not, Mr. Walters, that if he was involved in another accident he would be dismissed? He is a man of about 60-odd years.

A. I have no knowledge of that.

Q. He is a man of about 60 years of age?

A. He is getting along.

Q. It was just before his retirement?

A. I do not know.

Q. He is retired now?

A. I do not know; I couldn't tell you.

Q. He is an older man.

A. He is up in years. I don't know his age.

Q. You knew about that; it was well known around Moose Jaw among members of the organization, among the people there, this affair, was it not?

A. What affair?

Q. This one you are talking about.

A. Oh, yes. As it happened -- may I speak -- as it happened, this yard engine was switching and it contacted an engine on a train which was going out of the terminal and traffic was tied up for some little time.

Q. But if the company had carried out what it had told the fireman, in that case instead of giving him 40 demerit marks they would have dismissed him

and he would not have got his pension.

MR. LEWIS: The witness said he did not know anything about that.

THE CHAIRMAN: I suppose that is still true.

MR. LEWIS: That particular fireman is not on trial here. I do not see why his record should be brought out through a witness who says he knows nothing about it.

THE CHAIRMAN: The point that Mr. Sinclair is making is obvious, that this was a second offence.

MR. LEWIS: For my part I would rather that Mr. Sinclair just informed you that the railroad had been kind to this fireman in order to enable him to get his pension. I have no objection to that, but this witness says he does not know anything about it.

BY MR. SINCLAIR:

Q. In your brief you mention about cars being pushed too close to a lead and while an engine was working on the lead the fireman would sometimes notice these things and draw them to the attention of the engineman; is that right?

A. That is right.

Q. If you were responsible for pushing cars foul of a lead and other cars were contacted you would be subject to discipline, would you not?

A. I would, yes, being the foreman in charge of the engine, in charge of the crew I should say.

Q. As foreman in charge of the crew.

A. Yes.

Q. And the engineman, if he was moving cab first down the lead and cars were foul; if he was switching down the lead with cars on his nose, switching down the lead and there was a car foul and he contacted that on his back-up movement he would be assessed discipline, would he not?

A. Depends on the circumstances. I could not tell you how. The circumstances vary in every case. They are not all the same.

Q. Say a car was foul of the lead and he contacted it on the back-up movement when he was switching.

A. That is right. In my experience as a yardman and having been in contact with engineers, engineers have been getting away with murder over the years.

Q. You think he should have been disciplined?

A. Yes. It is always the yard foreman who is held responsible. He takes the rap for the works.

Q. I am very glad to have that evidence. You spoke about the east end of D yard and a train coming in at Moose Jaw and doubling over.

A. Doubling over, yes.

Q. The relocation of certain trackage at Moose Jaw is now in course of being carried out, or it has been finished, where they are lengthening those yard tracks to take care of trains that come in from

the west, or longer trains.

A. Yes sir. They are starting to enlarge the yard, too.

Q. So that doubling over would not be required.

A. Depends on what portion of the yard they are pulling into.

Q. On those tracks that they are able to double over, if they came in on those tracks doubling over would not be required, would it?

A. Not with an average train, but there are longer trains with 140 and 150 cars, you know. I doubt if they will hold that many cars.

Q. You say that when they double over at the present time the head brakeman gets off, gets the switch and then makes the cut and doubles over; right?

A. No, I did not say that. I said the trainman gets off, lines the switch and waits to give signals to the diesel helper.

Q. Then he makes the cut.

A. When the movement has stopped he makes the cut.

Q. And gives the signal to the helper?

A. And he goes back and gives the signals to the helper again.

Q. All this time the rear end crew are back at the tail-end, are they?

A. The rear end crew once the movement is stopped, it is only stopped on signal from the rear

end, and when the head end brakeman gives the signal to the engineer to stop, after receiving one from the rear end, then he knows that the train is into clear and then he proceeds to go about his own work of making the cut and doubling the cars over.

Q. Does not the tail-end crew walk up?

A. They do walk up but they don't wait 10 or 15 minutes until the balance of the crew walks up.

Q. If they waited that 10 minutes or 15 minutes, whichever you say, for the crew to walk up the three men could position themselves to give signals to the engineman, could they not?

A. They could, but in the meantime are you going to tie the yard up waiting for the two yard-men to walk back three-quarters of a mile? It is not customarily done, you know.

Q. No, that is right, Mr. Walters. Have you considered whether those small delays, in view of the fireman's wages, might not be a very good position economically for the public of Canada who have to pay the cost of transportation? Have you ever considered that?

A. Well, the company tolerates this practice and have tolerated this practice for the last 40 years.

Q. That is with steam power.

A. Where the head end man makes the movement.

Q. You have never considered the economics of

this matter?

A. No, I have never had to do with that.

Q. Now also in this situation where the trains double over, as you put it, if instead of doubling over the trains doubled in, what would the situation be then?

A. When trains arrive from the west the rear end is on the main line of the railway and the first endeavour of the crew pulling into the yard is to clear the main line. Trains arriving from the east, on the other hand, are not in the same situation. They pull into the yard when their tail-end is clear of the main line and therefore they do stop and pull in with sufficient cars in the first cut and they double-in.

Q. It is possible to double-in from the west end?

A. Well, if you are going to leave the main line foul it could be done.

Q. You do not mean foul, you mean blocked.

A. Blocked.

Q. It could be done?

A. I imagine it could.

Q. And the signals on the doubling-in movement could be given direct to the engineman at Moose Jaw in those cases?

A. Yes, that is on the one track when they are pulling into the track in the yard where they are going to double in their movement. Once the engine goes on to the lead many of the cars are

barely in the clear and it is difficult for the engineman to see clearly.

Q. If you are going to double-in at Moose Jaw from the west you could give signals direct to the engineman with the head brakeman making the cut; is that not so?

A. Only with sufficient cars that that track will hold. Where you have more than 65 cars you have to use the diesel helper because the engine goes around a curvature.

Q. I am suggesting, Mr. Walters, that you double-in, taking the first cut.

A. A first cut of say 45 cars.

Q. If you have only 65, say we take 35 cars.

A. It makes no difference where you cut them off.

Q. If 35 cars doubling-in can the head trainman not position himself to give signals direct?

A. He could, yes.

Q. And he could take the second cut?

A. Yes, he could, but in the meantime everything is tied up until we get those trains in. We have cantankerous yardmasters to deal with. They don't like tracks being blocked.

Q. Are they not members of your organization?

A. Not of our lodge, no. They are in a different lodge. We are not on speaking terms in a lot of cases.

Q. Are not they members of the Brotherhood of Railroad Trainmen?

A. I know a lot of members of the Brotherhood of Railroad Trainmen in Winnipeg and they don't even talk to me.

THE CHAIRMAN: That would not be a bar to giving signals.

MR. SINCLAIR: That is all.

ALLAN A. LLOYD, Sworn.

THE CHAIRMAN: Yes, Mr. Lloyd.

THE WITNESS: Mr. Chairman and members of the Royal Commission, my name is A.A. Lloyd and I am employed as a yard foreman at Regina, Saskatchewan, by the Canadian Pacific Railway. I am appearing before you on behalf of the Brotherhood of Railroad Trainmen, yard service employees, members of Assiniboia Lodge No. 929 (Regina Division) of which I am local chairman. A petition was circulated among members of our yard service organization in order to obtain their feelings with regard to the current proposition of the railway to remove firemen from yard and road freight service. I am now here to express the results of my contacts with regard to this matter with my fellow employees.

We work under conditions which are unlike any other occupation in that we work outside at all hours of the day or night and in all kinds of weather, rain, snow, and in all the various ranges of temperature from extreme heat to extreme cold. Our work is done in close relation to other employees doing the same work. It is vital that we be constantly alert to conditions affecting our work as well as the work done by our fellow employees on other jobs in the yard.

Yard work has been speeded up in order to get trains made up to comply with time-table schedules of our freight trains.

The presence of the fireman on the engine is necessary in order to give us the necessary protection which we have had for years. His presence is necessary to warn the engineer of cars running out or in, corners of cars striking other engines, hand cars being pushed by sectionmen, or striking other employees working in or about tracks or cars. The noise of moving cars or engines is not always heard by employees in yards and to remove the fireman from the engine would increase the hazards already present in the yards.

We are of the opinion that to remove the fireman from yard and road freight service would increase the hazards of life and limb of employees and increase the chances of damage to equipment and property shipped over the railway, which would only defeat in the longrun the safety policy advocated by our employer.

I would like to cite a couple of instances in support of the above statement which happened recently and which were furnished me by fellow members of the Brotherhood of Railroad Trainmen. I hereby quote from an affidavit:

" (4) On May 23rd, 1957, at approximately 19.30 hours, the yard crew on which I am one of the helpers was proceeding to West Creek Products to pick up a loaded car, No. 237570, the said plant being situated on the west end of the elevator track.

(5) That we were proceeding west about

two car lengths from the pick-up and I was riding on the backfoot board of the engine when I heard the fireman shout to the engineer to stop.

(6) When the engine stopped I proceeded around the engine to investigate the reason for stopping and I saw a man sitting on cinder blocks with both feet extended on to the rail on the fireman's side. This man was sound asleep and was unknown to us.

(7) In this case the man involved would undoubtedly, at the very least, have lost both legs if it were not for the prompt action of the fireman.

(8) On another occasion, May 30th, 1957, at about 17.00 hours, we were proceeding west on Depot No. 4 track, with the yard engine engaged in turning No. 424's equipment. I was riding in the engine cab because I had been called in by the engineer, who wanted some information.

(9) While I was in the cab I heard the fireman shout 'stop', two or three times from his side of the cab. The engineer applied the brakes in emergency.

(10) When the engine stopped I looked out the window and saw a man about two or three feet from the engine with one foot across the track on the fireman's side. The fireman called to him and he stepped back

and walked away.

(11) There was a high wind blowing, therefore he could not hear the engine coming. It was obvious the man had no knowledge of our approach until the fireman called to him. It is also obvious we would have struck the man but for the quick action of the fireman."

MR. LEWIS: No questions.

BY MR. SINCLAIR:

Q. That affidavit was made by whom?

A. Joseph Weimer.

Q. Do you know him?

A. Yes.

Q. You discussed the incident with him?

A. Yes.

Q. The first one was on May 23, 1957; that is the first one you spoke of. Was that a steam engine?

A. No, a diesel.

Q. Was the engine moving light?

A. Light.

Q. And he was riding the rear footboard in the direction of the movement?

A. That is right.

Q. Where were the other two members of the ground crew?

A. One man was with him on the other side, on the back footboard.

Q. Where was the yard foreman?

A. The yard foreman was on the back foot-board with him. The other man was at the switch on the main line.

Q. Why did not one of them ride on the platform of the diesel in the direction of the movement?

A. That I could not answer.

Q. If they had ridden there they would have had a better view than even the engineer and the fireman, would they not?

A. I would not say that because he was on the right-hand side.

Q. Riding out in front?

A. Just as good.

Q. Just as good?

A. Yes.

Q. Not better?

A. I wouldn't say better, no.

BY THE CHAIRMAN:

Q. Was that a proper place for one of them to ride?

A. The proper place is on the rear foot-board.

Q. For either one?

A. That is right.

BY MR. SINCLAIR:

Q. Mr. Lloyd, you say the proper place is on the rear footboard; are you not thinking of steam power?

A. No sir. We have no instructions that

read that we can ride the platform on a diesel; there are no instructions that are definite. Our instructions are definitely not to ride the forward motion footboard.

Q. Your instructions had to do with riding the leading footboard on a steam engine.

A. On any eninge.

Q. On any engine, on the side steps of a diesel or the platform?

A. We can ride.

Q. Then when you are moving ahead you would be in the best position to make an observation in the direction of the movement.

A. That is right.

BY THE CHAIRMAN:

Q. Is that the normal place to ride?

A. Yes, it has been the normal position.

Q. Where do you ride?

A. If it is handy for me to ride forward I might ride on the platform.

Q. At the front of the engine?

A. Sometimes I do, or if the opposite movement takws place we ride the back. The proper place we figure is the back. I have done it lots of times.

Q. When do you ride on the front of the engine, in circumstances such as this?

A. Well, if a case arises where you ride the front, but there is no definite rule where you ride it.

Q. If what case arises?

A. If I was going in to a track to tie on some cars I might, speaking for myself, ride the platform.

Q. The platform in front?

A. I have on different occasions.

Q. Mr. Lloyd, just answer the question; please listen to my question before you give your answer. You ride the platform in front of the engine?

A. That is right.

Q. Or do you ride ---

A. We can ride the side steps.

Q. You are just doing the same thing again. Please listen to my question. You either ride the platform in front of the engine or you ride the side steps at the front of the engine, is that right?

A. Yes.

Q. When do you ride the back of the engine?

A. If we are going the other way we can ride the back.

Q. My question was: when do you ride the back of the engine?

A. That may happen on different occasions when you are going into a track and you decide to go in there with a helper. As foreman I may ride the back footboard and he may be on the front.

Q. You would ride the back?

A. Footboard.

Q. If the engine was backing up?

A. No, going ahead.

Q. There would be somebody on the front?

A. There may be, yes. There is nothing definite that I have read. That is what I meant.

Q. But if you wanted to keep the best kind of lookout would you not ride in front?

A. I should; I agree, yes.

BY MR. SINCLAIR:

Q. The next occasion referred to in this affidavit is when they were turning the equipment for No. 424 on Depot No. 4 track. This is Moose Jaw?

A. Regina.

Q. He says:

" I was riding in the engine cab, because I had been called in by the engineer who wanted some information."

Was that a light move?

A. No, they were turning the equipment around the wye.

Q. Turning what kind of equipment?

A. Passenger equipment for the mixed train.

Q. Around the wye?

A. Yes.

Q. Where were the other two members of the ground crew?

A. They would be back at the tail-end of the train after she went by. One chap stays at the switch, to line the wye main line switch.

Q. Weimer says that he saw this man asleep in

a sitting position.

A. In the one case, yes.

Q. Asleep in a sitting position with his feet on the rail?

A. Yes; both feet were across the rail.

Q. Did Weimer see him afterward?

A. He went around the engine, as it states.

Q. Was the man intoxicated?

A. I don't know. He was unknown to any member of the crew.

Q. He was a trespasser?

A. I would say that, yes; definitely.

Q. What time was this?

A. That was about 7.30.

Q. 7.30 at night?

A. Yes.

Q. He must have been working nights to go to sleep at 7.30.

A. I don't know anything about that.

Q. Then there is other incident which Mr. Weimer speaks of about a man stepping across the rail.

A. On May 30.

Q. The same day.

A. May 30 I think it was.

Q. What were they doing, were they turning equipment when this man stepped across or put one foot across the rail, one foot across the track on the fireman's side; do you know?

A. Pardon?

Q. What had the man been doing?

A. He was walking across the yard, from the information I got, and apparently he must have froze. That is the only answer they could give me, that he froze with one foot being there.

Q. Did anybody speak to him afterwards?

A. The fireman and he told me -- the fireman-helper saw him and he walked away.

Q. Do you know who he was?

A. No, they didn't know who he was.

Q. It is quite possible that he saw the movement and that he had enough room to go across.

A. It was the most windy day we had had this year.

Q. You don't know?

A. Yes, I was working that day.

Q. You know there was a strong wind?

A. I do.

Q. But you do not know ---

A. I don't know what took place in his mind.

Q. You do not really know how far the engine was away at the time he started across the track?

A. No, I do not know that.

DAVID BROWN, Sworn.

THE WITNESS: Mr. Chairman and gentlemen of the Royal Commission, I have been elected by Division 535 to present this signed petition and to express the opinion of the members concerned. I am here now only to present the facts concerning the members of Division 535 in protest against the removal of fireman-helpers from diesel locomotives in freight and yard service and not as a witness appearing for the company or the Brotherhood of Locomotive Firemen and Enginemen. We are mainly concerned with conditions governing train operations on territories on which we work and the safe operation of same.

We believe that an engineer and a fireman-helper are essential on diesel locomotives in freight and yard service. To remove the fireman-helper from a locomotive would slow down yard switching and freight train movement in road service and place further responsibility on the engineer.

The responsibility now placed on the shoulders of an engineer since the advent of diesel locomotives has become greater because of longer trains and an increase in speed.

We feel that in safe train operation a qualified fireman-helper is a necessity in all instances as the brakeman that rides the head is more interested in keeping a lookout as to the

condition of his train and trusts to the engineer and fireman to keep a sharp lookout ahead.

Doubling trains in and out of Winnipeg yard and proceeding from yard diesel tracks and turning diesels at Rugby would be hazardous undertaking without a fireman-helper on the left side, as the engineer is on the outside of the curve backing up and the fireman-helper is the engineer's eyes in this movement.

It is the opinion of the members of Division 535 in regards to safe train and switching movements that a fireman-helper is a necessity. We sincerely hope firemen-helpers will be retained.

BY MR. LEWIS:

Q. I did not hear the beginning. This is Division 535 of the Brotherhood of Locomotive Engineers?

A. I will read from the beginning again if you wish.

Q. Just tell me.

A. I have been elected by ---

Q. Is it the Brotherhood of Locomotive Engineers of which you are a member?

A. It is.

Q. Are you an officer of Division 535?

A. No. I was delegated to present this signed petition to the board.

Q. To the Commission?

A. Yes.

Q. You are yourself an engineer, are you?

A. Yes.

Q. Working out of where?

A. Kenora.

BY MR. MUNDELL:

Q. How many signatures are there on the petition?

A. Practically 95 per cent of the members.

Q. I was just wondering how many signatures there were. Do not bother counting them.

THE CHAIRMAN: We have already discussed this matter. As far as a petition is concerned we do not know what the representations were to anyone signing the petition.

BY MR. SINCLAIR:

Q. You run on the main line?

A. Yes.

Q. On freight trains the head trainman rides the left side?

A. He does.

Q. On diesels?

A. Yes.

Q. He can see the block signals as they come to them?

A. Not when checking his train.

Q. When he is not checking his train he can see them.

A. When I am checking my train I cannot see the board signals and the fireman can.

Q. Are you saying that there are places where

you cannot see block signals as an engineman on a diesel of that type?

A. We cannot see them at the same time.

Q. But you can see them before you pass them.

A. Who is going to pass a signal he cannot see?

THE CHAIRMAN: This area that is spoken of is where the movement is to the left and the signals are on the right?

MR. SINCLAIR: He said on the left; that is correct, on the right.

THE CHAIRMAN: The movement is to the left and the signals are on the right.

BY MR. SINCLAIR:

Q. The movement is to the left and the signals are on the right.

A. Pardon me, the movement is to the left and the signals are to the left with the exception of two.

THE CHAIRMAN: I misunderstood what you said, very good.

MR. SINCLAIR: I take it that the witness has now said that he as an engineman can see them before he passes them.

BY MR. SINCLAIR:

Q. You are required to check your train and have you also to make running inspections?

A. We always make a running inspection when

we can.

Q. But you do make running inspections?

A. Definitely.

BARNEY BJAINASON, Called.

THE WITNESS: Mr. Chairman and gentlemen of the Royal Commission, having been elected by the members of Division 710, Brotherhood of Locomotive Engineers, I have been instructed to present this petition on behalf of the engineers who have signed same and we consider that the removal of firemen from diesel locomotives in freight and yard service is not in the best interests of safety and economy.

We, as engineers, realize as no one else can the value of an experienced fireman-helper on the left side of a diesel locomotive. Engineers who have operated diesel electric locomotives for any length of time have come to recognize the value of fireman-helpers whose services are indispensable to the safe and continued operation of trains and engines.

It is our belief that an engineer and fireman-helper in addition to the train crew in yard and freight service should be considered the minimum number required. To reduce the crew would be a very dangerous method of economy and would in many cases slow down switching operations.

In freight service an engineer handling anywhere between 50 and 150 cars is oft times called on to make meets on superior trains, and an error in his judgment could easily prove to be costly in life and equipment and the engineers

for whom I am speaking feel that the removal of the fireman-helper from diesel locomotives is filled with danger to the general public besides adding a strain and further responsibility on the engineer.

It is respectfully submitted that the view on the diesels in freight and yard service is hindered in such a manner that an engineer's view of what is happening on the left side is in some cases restricted to such an extent that he can see nothing whatsoever.

The handling of a passenger train is altogether different in that it has the right-of-way, knowing full well that all freight trains will be in the clear for them.

The freight crews must work as a team and plan together just what distance they can go before clearing passenger trains. This in itself takes years of training and good judgment and can only be gained by many years of actual on-the-job training.

It is understood that the Board of Transport Commissioners have set a very high standard of visual acuity for enginemen and the fireman-helper who now performs the service of being the eyes on the left side of the cab. To remove from the cab this very important pair of eyes could not be termed as a safe and sane decision, especially in view of the speeding up of train service and the increase in tonnage handled by diesels at present.

BY MR. LEWIS:

Q. Where are you from, Mr. Bjainason?

A. Minnedosa.

BY MR. SINCLAIR:

Q. Passenger trains, Mr. Bjainason, you say that they would be travelling with a clear road and it is a pretty easy thing.

A. Is a pretty easy thing?

Q. Yes.

A. No, I didn't say that in my statement.

Q. All other trains want to get clear and they hold the right to the track at all times.

A. It usually has the right-of-way over inferior trains unless you have meets.

Q. Have you ever received any restrictions with passenger trains, that is with respect to speed?

A. Yes, sometimes we do.

Q. And have you had to watch that without a flagman?

A. Yes.

Q. Two men do that quite adequately on passenger trains?

A. Two men.

Q. On the head end.

A. They have done in the past.

Q. Some passenger equipment runs with only one man on the head end?

A. I have never been on it.

Q. But you know that it does, that is Budd equipment.

A. Pardon?

Q. Budd equipment, day liners?

A. Yes.

W.H. ENGLAND, Called.

THE WITNESS: Mr. Chairman and gentlemen of the Royal Commission, I as local representative of the Brotherhood of Locomotive Engineers, Division 76 in Winnipeg, have been instructed to present a signed petition in opposition to the removal of firemen-helpers from diesel locomotives in freight and yard service.

I would like to take this opportunity to explain to you that neither I nor the men I represent who have signed this petition are appearing as witnesses for the company or the Brotherhood of Locomotive Firemen and Enginemen but ~~am~~ expressing the opinion of the engineers I represent as to the safe operation of an engine.

Unexpected situations can arise on any trip or day's work. Coupled with this, engine crews are being placed under constant strain because of the actions of the public approaching and travelling over railway crossings at grade, and children wandering upon or playing on or near railway property.

These situations can very easily arise when the rest of the crew are on the engineer's side. The Board of Transport Commissioners have in their wisdom and experience rightly set a very high standard of visual acuity for all enginemen. The fireman-helper now performs the indispensable service of being the engineer's eyes on the left

side of the cab and to now remove this set of eyes from the left side of the cab is contrary to all rules of safe railroading.

The teachings of safety instilled in the employees of the Canadian Pacific Railway and the manner in which safety has been carried out by officers and employees alike has put the Canadian Pacific safety-wise on a par with any railroad in America.

Since the advent of the diesel locomotives speed limits and length of trains have been considerably increased, thus placing more responsibility on enginemen.

This petition having been drawn up as it has is an expression of the thoughts of each engineer who has placed his name on it. This petition has been signed by 108 engineers.

The engineers up to this time have rightly withheld any comment or interference in this matter in the interest of true collective bargaining. However, the time has now arrived that it is the bound and duty of all engineers not to back away from their responsibility but to speak out collectively in the interests of public safety.

This brief is presented by W.H. England, local representative Division 76, on behalf of the locomotive engineers of the Winnipeg Division employed by the Canadian Pacific Railway Company.

MR. LEWIS: No questions.

BY MR. SINCLAIR:

Q. Mr. England, you are local chairman of the Brotherhood of Locomotive Engineers, Winnipeg?

A. That is right.

Q. You are of course active in union matters?

A. Yes, I am.

Q. And you of course have read the correspondence that comes from your Grand Lodge in Cleveland, Ohio?

A. Yes, most of it.

Q. And you read the journals which come every month?

A. We have the Engineer's Journal once a month, yes.

Q. Then every two weeks you receive a paper called Locomotive Engineer?

A. That is right.

Q. You get those?

A. I do.

Q. I have in my hand the issue of the Locomotive Engineer for June 7 which contains a comment by Guy L. Brown. He is the chief of your organization?

A. That is right.

Q. Do you remember seeing that? Look at it.

A. I remember part of it.

Q. "Enigma of Mr. Gilbert" Do you

remember that heading?

A. No.

Q. Look at it.

A. Yes, I can see that.

Q. Mr. Gilbert is president of the Firemen's Union, Cleveland, Ohio?

A. I believe he is.

Q. Mr. Gilbert early this year started an active campaign to take over in one union all the firemen and all the enginemen. You know about that?

A. I have heard of it, yes.

Q. And this June 7 issue of the Locomotive Engineer reads in part -- this is your chief, Mr. Brown, talking about the enigma of Mr. Gilbert. He is talking about this attempt to amalgamate in one union both enginemen and the firemen. He says here in part:

" Officers and organizers of the Brotherhood of Firemen are doing everything possible to stir up dissension among the members of our Brotherhood by misrepresentation and giving voice to rumours. On our vote of the delegates to our convention in effect stops me from participating in any amalgamation movement. The B.L.F. & E. president tells about the great volume of mail he is receiving urging them to continue with his efforts to take over the Brotherhood of Locomotive Engineers. Notwithstanding the fact that this

organization ---"

That is your organization.

"---has and is giving him and his associates every assistance possible in their fight for survival, such as in the Canadian Pacific diesel dispute."

Do you remember reading that?

A. No, I cannot say that I remember.

Q. That is ---

A. That is what you have read there, yes.

Q. That is your paper?

A. That is right.

Q. Earlier in these proceedings -- I have not done this yet but I will file extract from the Locomotive Engineer's Journal, examples such as that -- I filed certain extracts from the May 7 issue. Do you remember the Grand Chief's Message in the May issue of the Journal? That is Mr. Brown's picture up at the top?

A. That is right.

Q. And that sets out the correspondence between himself and Mr. Gilbert leading to Mr. Gilbert finally saying that he wanted to support the enginemen?

A. Yes.

Q. Remember that?

A. No, I cannot say that I do actually remember it.

Q. Look at it. You can remember what happened in May of this year.

A. Well, if I was to take the time to read that I would maybe understand more or less what you are driving at.

Q. I am not driving at anything except to assume that you would read it, being interested in this matter.

A. I have read the comments of both the firemen and of our Grand Chief.

Q. This was correspondence between your chief and the chief of the firemen.

A. Are you speaking of the letter that was put out by our Grand Chief where he was supporting the firemen in their issue on the diesel?

Q. Yes, that is one of the things in here.

A. That is the one I have in mind.

Q. This is the one you mean. Here is a letter dated April 4, 1957 to O.J. Travers, Jack Marshall and H.E. Campbell. They are senior officers of your lodge?

A. That is right.

Q. And Guy L. Brown is your chief in Cleveland?

A. That is right.

MR. LEWIS: Not senior officers of his lodge.

MR. SINCLAIR: Of his union.

BY MR. SINCLAIR:

Q. H.E. Campbell is the legislative representative?

A. Yes.

Q. And the other two men, Travers and Marshall are what?

A. Assistant Grand Engineers.

Q. Do you know Travers and Marshall?

A. I do not know Brother Travers; I know Brother Marshall. He is sitting in the court room.

Q. He is a former Canadian National engineman?

A. I could not tell you what occupation he had.

Q. He did not run with you?

A. No.

Q. This letter reads in part:

" I would appreciate it if you would supply Mr. Lewis with such information and assistance as you may deem proper and helpful to him in preparing and presenting to the Royal Commission, which is investigating the CPR-BLF&E dispute, evidence that will result in maintaining firemen on the diesel locomotives of the C.P.R."

MR. LEWIS: May I say that I appreciate the relevance of all this and I apologize for having asked a question.

MR. SINCLAIR: If my friend is saying that the questions I have put to this witness are irrelevant I am quite prepared to argue the matter, but I think it should be done at the proper time.

MR. LEWIS: I certainly would.

MR. SINCLAIR: If my friend had wanted to object he should have done it at the proper time.

BY MR. LEWIS:

Q. Mr. England, this question of amalgamation; do you know whether it has just recently arisen or whether it has been before the two Brotherhoods for longer than that?

A. Amalgamation has been brought up over the years at different times.

Q. Do you know whether it has been taken up at conventions of your Brotherhood of Locomotive Engineers?

A. I have never attended a convention and I would not know what occurred there actually.

Q. Have you discussed the matter in your lodge over the years?

A. More or less, and among the men themselves, both the firemen and enginemen.

Q. Have you received any communications over the years on this question of amalgamation from your Brotherhood?

A. I have only been local chairman for about 18 months of the engineers. I have never received any in that time that I can recall.

Q. But you do know that discussions have been going on for many years?

A. Between the two lodge officers and the men themselves, yes.

--- Recess.

THE CHAIRMAN: We have had some discussion about this afternoon and it is not the desire of the Commission that any evidence should be dropped. We want to cover everything that needs to be covered.

JOHN EDMUND STRUTHERS, Sworn.

BY MR. LEWIS:

Q. Mr. Struthers, you have informed me that you are employed as a fireman by the Canadian Pacific at Winnipeg, is that right?

A. Yes.

Q. And that you joined the Canadian Pacific in October 1948 as a wiper; that you were promoted to fireman in April, 1951. Was that in Winnipeg or Fort William?

A. Fort William.

Q. When did you move back to Winnipeg?

A. I went to Fort William around the 1st of April and came back around the 1st of July.

Q. According to the information you gave me you have been working for the Canadian Pacific in Winnipeg or out of Winnipeg since July, 1951?

A. Yes.

Q. Do you remember an incident which occurred on April 22 of this year?

A. Yes.

Q. Would you tell the Commission about it, please. What were you working on. Were you on a road job or a yard job?

A. I was on the south hump job at 16.00 o'clock.

Q. The south hump job in the yard?

A. Yes. We were instructed to go from the east end of the south hump around by the round-house, around what we call the horn by the ice-house, down to Track 26 to push a drag over the hump.

We were taken around by the head-end switchman and tied on to, I believe it was around 50 cars. The head-end switchman walked to the head end of the train and my engineer and I waited for approximately half an hour. We were waiting for a signal from the head-end switchman to bring us ahead over the hump.

Q. I suppose the hump was busy.

A. Well, I don't know anything about that because we were 52 cars away from the hump at the time.

Q. You were just standing and waiting for the signal to go?

A. Yes. While we waited the grain stabbers were working on the engineer's side of the train, taking samples I imagine, and the head-end switchman was waiting until they were finished to give us the proceed signal to go over the hump, the way I understand it.

In the meantime they disappeared from the view of the head-end switchman and he presumed that they were finished.

Q. You do not know?

A. No.

Q. You do not know that?

A. I don't know that, but I imagine he did presume that. I consider that he gave the signal to the engineer to come ahead, but the grain stabbers had cut through the cars and were on my side of the engine and when I saw my mate making a move to move the engine ahead I looked ahead and I noticed they were, there was men about three cars from the engine on top of one of their ladders and they were working on my side. Had we moved the cars he would certainly have fallen off the top of one of the grain stabbers' ladders.

Q. Was anything done by you or by the engineer?

A. Well, I called --

Q. When you saw that was anything done by you or the engineer, when you saw the grain stabber there?

A. I immediately told him to stop the movement or he would have knocked the grain stabber off the side of the car.

Q. Then what happened? Did you have to wait any longer, or what?

A. We waited until they were finished. I just forget exactly what did take place after that, but we certainly waited until they were finished with their work on those cars.

Q. Then you carried on with your humping job?

A. Yes.

Q. Do you remember another incident that you had to do with in the St. Boniface yards?

A. Yes, I do.

Q. Do you remember when that took place?

A. Well, I don't remember the exact date but it was approximately a month ago.

Q. Do you remember what day of the week?

A. I remember it was on a Sunday. It was the 6.30 St. Boniface yard job.

Q. Will you tell the Commission what happened there?

A. We were switching cars off the running lead across the crossover south of Marion Street. We were sorting them out in the storage track which parallels the main line along by the St. Boniface Grain.

My mate received a kick sign from the switchman and he made a kick and it accidentally happened that the engine stopped just about at the fouling point on the crossover, the fouling point of the running lead.

There were two sectionmen with a hand car loaded with ties or track material waiting to go down the running lead to work on the track, south of where we were working. I imagine they thought we were going to complete the movement over the crossover and someone lined the switch and they pushed the hand car down and psychologically my mate received the "go ahead" from the switchman and he released the brake and when the engineer

released ---

Q. When you say "psychologically" --

A. Well, about the same time.

Q. You mean simultaneously?

A. As they started to push the hand car they gave him the "go ahead".

MR. SINCLAIR: We have heard it called radar.

THE WITNESS: Do not criticize my literature.

MR. SINCLAIR: I am not criticizing you in any way.

BY MR. LEWIS:

Q. We were just trying to understand you.

A. When you release the independent brake it makes a hissing noise in the cab and I called to my engineer to stop. Of course he could not hear the stop signal and I had to get out of my seat and go over and swing him down and tell him to stop, otherwise he would have probably knocked the jigger off the track and probably injured the men who were with the jigger.

Q. The jigger was being pushed by those men?

A. Yes.

Q. I am showing you Exhibit 227 which was filed with the Commission. There is a crossover with the letter A above it on my copy. Is that the crossover you were working on?

A. Yes; that is Marion Street there, is it?

Q. Marion Street.

Q. Yes, that is the crossover.

Q. Going east and west?

A. Yes.

Q. This crossover was just a little south of Marion Street, is that right?

A. That is right.

Q. You were working over that crossover and then on to the track south of the main line?

A. We were.

Q. Is that right?

A. That is right.

Q. Your engine stopped on that crossover just foul of the switch, did it?

A. Yes, that is right.

Q. Just foul of the running lead, the running lead track being the track just east of the main line; is that right?

A. Yes.

Q. And the sectionmen were standing with their push car; were they just east of this crossover; is that right, or were they on the running lead?

A. No, they were north of the crossover on the running lead.

Q. They were north of the crossover?

A. North; this is north?

Q. North of the crossover on the running lead?

A. Yes.

Q. You were standing on the crossover?

A. That is right.

Q. You said a man lined the switch for them. Do you know whether it was a member of their crew or of your crew or what?

A. No, I would not have any idea who it was. I imagine that he was the switch foreman, but I could not say because I do not know.

Q. Was he a member of your yard crew?

A. No, he had nothing to do with our yard crew.

Q. It was some other crew that he was with?

A. Yes.

Q. Did you notice where he was standing, if he was standing anywhere before he lined this switch?

A. No, I did not notice. I noticed the sectionmen but I never noticed any particular position that they had taken up.

Q. Could the engineer have seen the movement of the push car toward the crossover switch?

A. Well, not unless he got out of his seat to go and look.

Q. Sitting at the controls?

A. No, he could not have seen it.

Q. Where was your yard crew?

A. They were back up -- they give the signal from the crossing and then if the cars are cut off they can protect the crossing.

Q. They make any switch that is necessary?

A. If they are cut off and clear of the

crossing they would be positioned, but I could not tell you where they were. I imagine they were on the engineer's side.

Q. You did not see any of the yard crew on your side?

A. No, I did not see them.

MR. LEWIS: That is all, thank you.

BY MR. SINCLAIR:

Q. This incident that you spoke of recently, what date did you say that was? That was the incident over here at St. Boniface.

A. I was not sure of this date.

THE CHAIRMAN: May this year, on a Sunday, but he did not give the date.

BY MR. SINCLAIR:

Q. You do not know the date. You say that the route was lined for your movement from the main line over to the crossover, through the crossover on to the running lead.

A. The crossover was lined for us.

Q. Who lined it for you?

A. Our switchman.

Q. After he had lined the route and you had placed your engine in position so that you took the route by going foul of the switch and the engine follower went back to assist his mate; is that right?

A. From my position on the other side of the engine I am only interested in other fouling

movements. I didn't know what the switchmen were doing. I have a good idea, but I didn't know.

Q. Did you see him line the route?

A. Did I see who line the switch?

Q. Did you see the engine follower line the route for your movement through the crossover on to the running lead?

A. When we came over to begin with, yes.

Q. You saw him do that?

A. Yes.

Q. Then he went back to assist his mate, did he?

A. I imagine so.

Q. He went back on the engineman's side where they were to pass signals to switch over the crossover on to the running lead?

A. Yes.

Q. You were actually switching, going back and forth.

A. We were switching from the running lead over into the storage tracks.

Q. Were you switching or were you pushing or pulling?

A. No, we were switching; we were kicking cars.

THE CHAIRMAN: The engine was going south, locomotive first in front of the cars; is that it?

MR. SINCLAIR: I would take that to be so.

THE CHAIRMAN: Let us understand it.

THE WITNESS: The cars were at the cab of the engine and we were facing south.

BY MR. SINCLAIR:

Q. The Chairman asked if your engine was pointed south, headed south?

A. Yes.

Q. The cars were attached behind your engine, the cars were attached to the cab end?

A. Yes, that is right.

Q. And you were doing switching to the north?

A. Yes.

Q. That is correct?

A. Yes.

Q. And you were making passes up and down the main line through the crossover on to the running lead as shown in Exhibit 227, moving back and forth; is that right?

A. That is right.

Q. On this occasion you say the section crew came down the running lead from the north with a push car; is that correct?

A. Yes.

Q. And approached the place where the crossover is between the Emerson main line and the running lead?

A. Yes.

Q. And they stopped there?

A. Yes.

Q. How many men were in the crew?

A. I could not say; there was at least three men.

Q. At least three men in the section crew?

A. Yes.

Q. The switch of course would be against them coming down the running lead?

A. Yes.

Q. They stopped back so they were not foul of your movement on this crossover and the running lead; correct?

A. That is right.

Q. Then as you pulled away somebody went and lined the switch for the running lead; correct?

A. The engine did not pull away; the engine stopped at the fouling point. He made a kick and the engine accidentally came to rest just about at the fouling point. We were not trying to clear the switch or anything like that.

Q. Were you trying to hold the switch?

A. No.

Q. But you were foul of the running lead?

A. No, we were at the fouling point.

Q. You were at the fouling point on the running lead?

A. Yes, on the crossover.

Q. To the running lead?

A. Yes.

Q. Your engine was foul of the running lead?

A. No.

Q. It was foul of what?

A. It was foul of nothing.

Q. It was foul of the crossover on the west side -- I am looking at Exhibit 227, foul of the crossover on the west side. Is that what you mean? Was your engine foul here or was it foul here?

A. It was foul -- this is the running lead; this is the main line. It wasn't foul of this track; it was at the fouling point, I said.

Q. At the fouling point of the crossover switch from the Emerson main line to the running lead?

A. Yes. They were at the point of the foul; they couldn't have pushed the jigger down.

Q. You were not foul of the running lead itself?

A. Certainly not. If we had been they could never have pushed the jigger down to cross in front of us.

Q. Your answer is you were not foul of the running lead.

A. No.

Q. So when you were not foul someone went up and lined the switch for the push car to occupy the running lead; correct?

A. Yes.

Q. And then you say after that was done they started to move forward; is that right?

THE CHAIRMAN: Who did?

THE WITNESS: Who started to move forward?

BY MR. SINCLAIR:

Q. The crew started to move forward.

A. Yes.

Q. And at the same time you started to move forward, is that correct?

A. Yes.

Q. Who could see the signal of the switch, who could see the target on the switch that would show it was lined against you?

A. I cannot remember whether I could see it or not.

Q. Could the engineman see it?

A. I don't believe he could.

Q. Neither of you could see it?

A. Well, I cannot say I could not see it because I don't remember that clearly actually the switch part of it, but I was more interested in watching the sectionmen with the jigger than I was in actually watching the switch. I do know it was against us so they wouldn't be -- I took it for granted it was against us.

THE CHAIRMAN: Find out where this switch signal or target was, was it north, east or west of the running lead?

BY MR. SINCLAIR:

Q. Mr. Struthers, where actually is the switch stand to line the movement over the track, the movement down the running lead. We are looking at Exhibit 227. That would be the switch and that would be the running lead. That is to the west or top

of Exhibit 227. Where is the switch?

A. It is right where this track meets the running lead.

Q. On what side, is it on the west side or east side?

A. It is on the east side.

Q. It is on the east side?

A. Yes.

THE CHAIRMAN: I am not following that. Is that the north end of the crossover or the south end?

MR. SINCLAIR: The switch for the running lead would be at the south end of the crossover. The one on the north end would govern the Emerson main line.

BY MR. SINCLAIR:

Q. Is that correct?

A. Yes.

THE CHAIRMAN: The crossover to the working lead was on the east side of the working lead?

MR. SINCLAIR: The switch that the witness is talking about is the switch east of the two tracks. He says it is located east of the two tracks. That is east of the running lead.

THE CHAIRMAN: Yes, all right.

BY MR. SINCLAIR:

Q. That was lined against your movement?

A. Yes.

Q. And the man who came up and lined it, did

you see him?

A. No.

Q. And where did he go and stand after he had lined the switch?

A. I don't remember too clearly exactly where the man was standing. I was more interested in the hand car being shoved down in front of our engine.

Q. Was it one of the men from the section crew that went and lined the switch?

A. I couldn't say.

Q. Once that switch was lined you lost your right to track to go over foul of the running lead, didn't you? You were stopped foul of the crossover and once that switch on the running lead was lined against you you lost your right of track to go over on to the running lead, did you not?

A. He had no business taking the switch away from us until we completed our movement over the crossover. There was nothing we could do about being foul or at the fouling point.

Q. You had no business to move because you could not see.

A. They had taken the switch away from us and the sectionmen pushed the jigger down so we could not control the move.

BY THE CHAIRMAN:

Q. Who gave the signal to proceed to you?

A. The switch foreman gave the engineer the signal to proceed from the engineer's side of the engine.

BY HON. MR. McLAURIN:

Q. You do not know that, you did not see it?

A. I did not see it, but I don't imagine he moved without a signal.

BY THE CHAIRMAN:

Q. I just asked who gave the signal. You did not see the signal being given?

A. No.

Q. Whoever gave it gave it to proceed against the switch?

A. Yes.

BY MR. SINCLAIR:

Q. Before you could make that move you had to know that the rout was lined properly for your movement, did you not?

A. Yes.

Q. You had to observe the position of the switch target, the signal on the switch stand, did you not? I know you did not do it because you said you did not, but the man in charge of the movement, of the locomotive, the engineer, he had to be satisfied that the route was properly lined forhis proceed movement; that is correct, is it not, according to the rule?

A. As far as he was concerned the route was still lined because we hand't completed our movement over the switch. Therefore no one has any business taking the switch away from us. I don't think he did anything wrong at all.

Q. I am asking, does he not have to see that

the switch is properly lined for his movement?

A. We have to be able to trust the other men that we work with not to take that switch away. Therefore I would say he should be able to make that reverse movement and know that that switch was still lined for him.

Q. You have to be able to trust the other man; that is, working in yards the yard crews protect against each other, the ground crews; is that what you are saying?

A. We rely on other people.

Q. The ground crews ---

A. That they will do their work properly.

Q. I asked you if in working in yards one ground crew protects against the other, they protect against each other? A ground crew after they took a switch away would station a man at the switch; is that what you are saying? Is that what they should have done?

A. I imagine they would.

Q. You say that is what they should have done in this instance?

A. Would you repeat that?

Q. If they had taken the switch away from you they should have stationed somebody there to protect you from coming down?

A. No, they should not have taken the switch away from us.

Q. I said if they had taken it then it was their duty to protect against you coming down.

A. We should have been notified not to bring the engine ahead at all.

Q. Once they had taken the switch away from you?

A. Yes.

Q. That is the duty of the person who does take the route away from you?

A. Yes.

Q. Then about these grain stabbers. You said that the men of the ground crew took your engine up and you were to push cars over the south hump, was it?

A. Yes.

Q. And you stayed there for about half an hour until the cars could be switched because there were grain cars; is that correct?

A. Yes.

Q. You have worked a long time around the Winnipeg Terminal?

A. Not a long time. I have worked considerably around the Winnipeg Terminal.

Q. Have you ever seen these little cards the grain people have printed to indicate when they have completed their inspection?

A. No, I never have.

Q. You have never seen those?

A. No.

Q. You do not know whether in this instance one of the grain stabbers okayed the move or not? Grain inspectors is what we have been referring to

them as.

A. No, I do not.

Q. You do not know about that?

A. No.

ALLAN GEORGE STACEY, Sworn.

BY MR. LEWIS:

Q. Mr. Stacey, you told me last night that you are now a conductor with the Canadian Pacific in pool freight service.

A. That is right.

Q. And you have been in pool freight for some time now, have you?

A. Yes. I just recently was set up, but I have been in pool freight service for quite some time.

Q. You were just recently set up as a conductor?

A. Yes.

Q. You joined the Canadian Pacific as a sectionman in 1939, is that right?

A. That is right.

Q. And then you became a trainman later on, did you?

A. Yes.

Q. In 1941, was it?

A. Yes.

Q. Where, in Winnipeg?

A. In Winnipeg.

Q. And out of Winnipeg?

A. Yes.

Q. When were you qualified to become a conductor?

A. In July, 1948.

Q. Also in and out of Winnipeg?

A. Yes.

Q. And you said you were only recently set up as a conductor?

A. Yes, I have been set up and set back at least four or five times in the past three years; when business slacks off I am returned to freight.

Q. According to the workings of the seniority list?

A. Yes.

Q. Is that right?

A. That is right.

Q. Do you recall being a conductor on a freight train from Winnipeg to Brandon last June?

A. Yes.

Q. Do you remember what train it was, whether it was an extra or symbol?

A. It was an extra train.

Q. Please speak a little louder, it is a bit hard to hear. Do you remember the train?

A. The diesel number was 8659, one unit.

Q. You had just the one unit?

A. Yes.

Q. Do you remember how many cars you had?

A. 92 cars.

Q. You were going from where to where?

A. Winnipeg to Brandon.

Q. Did you have any trouble on the trip?

A. Yes, we had considerable trouble.

Q. Would you tell the Commission about it please. Did you have it only once or more than once

on that trip?

A. We had it on three occasions, hot-boxes, that is hot journals.

Q. Will you commence at the beginning. Where did you have the first one?

A. On our journey west we had our first two hot-boxes at Rosser and it was necessary that we set them out. That meant crossing from the westward track over the eastward track and into the business track, the business track being south of both main lines.

Q. This is a double-track area?

A. A double-track area.

Q. Yes. What did that require, if anything?

A. Well, it required that we put a flagman out to protect the movement crossing over the eastward track.

Q. That would be a flagman to protect the front?

A. Yes, he had to go to the west.

Q. Did you or did you not require flag protection at the rear?

A. Not on that occasion.

MR. SINCLAIR: Did he say he put a flagman at the front?

MR. LEWIS: That is what I understood.

BY MR. LEWIS:

Q. You said you had to protect the front?

A. The rule says we have to protect it and a flagman was put out to protect us.

Q. Where was the flagman put out, in which direction?

A. To the west.

Q. And you were going westward?

A. Yes. That was to protect any movement coming in the eastward direction.

Q. I was asking you whether you did or did not protect the rear at that time by flagging.

A. No, not at Rosser.

Q. You did not protect the rear at Rosser?

A. No. We were then within yard limit boards.

Q. What happened then?

A. We had to cross to set out and they were separated by a number of cars and we took one car over into the business track and set it out and put the others back on our train in order that we could get at the second car which had the hot journal. This required that we have the head-end brakeman in position to relay signals to the rear end trainman and myself to do the actual work of setting out the car or cars.

Q. Who did the flagging?

A. The fireman did the protection in this instance.

Q. And when you finished this, what happened?

A. Well, after we finished at Rosser we went on our trip and we got to Meadows. That is the next station. We stopped there and walking up the train the rear end trainman and I found we had

two more hot boxes. They were on fire and it was necessary to set them out also. The same procedure was carried out at Meadows as at Rosser.

Q. And the men were positioned in the same way, were they?

A. Yes.

Q. The fireman out flagging?

A. Flagging.

Q. Did he protect your rear in that case?

A. He protected the front. He protected against any movement coming on the eastward track.

Q. You mentioned yard limit boards. Were there any at Meadows?

A. There are yard limit boards there and we didn't require rear end protection.

Q. By the way, Mr. Stacey, when you set off hot boxes do you or do you not do anything before you leave the car on the track?

A. Yes, before we leave a car on the business track it is necessary that we remove the hot dope, which is in most cases on fire, and extinguish it. It is my duty as conductor to take down the number of the car, the last date that the journals were repacked, its capacity and the number of the journal. This must be put in in a report to the dispatcher.

Q. Do you do that after a car has been set off on the business track?

A. Yes, usually.

Q. And what if anything do the other members of your crew do?

A. To cut down the delay of the train usually the rear-end trainman, he withdraws the dope from the car and as a rule the conductor goes out with the cut of cars to tie them on.

Q. Was there any train coming behind you at that time or was there not?

A. Yes, there was another train coming behind us.

Q. Do you remember what its number was?

A. I don't remember the number of the diesel but I knew it was an extra train. They had one unit diesel. I don't recall the number of the diesel at this time.

Q. When you set off those two hot boxes at Meadows I presume you started again westward, did you?

A. Yes.

Q. And you said you had trouble on three occasions. What then was the third occasion?

A. We went two stations this time, to Reaburn. On advancing around a left-hand curve the rear-end trainman called to me. I was down writing reports on the other hot boxes. He thought we had additional hot boxes.

Q. You were writing reports where?

A. At the desk in the caboose.

Q. The rear-trainman was with you in the caboose?

A. He was in the cupola.

Q. When he said this to you was the train in

motion?

A. Yes.

Q. Go ahead. He told you he thought you had some more hot boxes.

A. I went to the rear end of the caboose and looked up the side of the train and verified the fact that we had more hot boxes. We had to pull the air at Reaburn and as soon as we stopped it was necessary for the rear-end trainman to go out flagging as we have no yard limit boards at Reaburn.

I walked up the train and I found we had two more hot boxes. It was necessary to set them out in the business track at Reaburn.

As on the two previous occasions, it was necessary to have flag protection at the head end to protect any movement coming on the eastward track.

Q. This time at Reaburn you had to have flag protection both at the rear and at the head?

A. I don't think, I know that we have to have protection at both ends.

Q. How far did the front flagman have to go, do you know?

A. At that place he has to go at least 1,500 yards because the curvature of the track in this case makes that necessary. There was only myself and the engineer and the head-end trainman to do the work.

Q. Again the fireman was out flagging?

A. The fireman was out flagging.

Q. Where, the front?

A. Yes.

Q. What did you do? You said you found two more hot boxes.

A. We found two more hot boxes. We had to set them out too. In addition to that, it was my decision to set out an additional 23 cars as it was on those 23 cars we were having our difficulty and trouble.

Q. What were those cars?

A. They were O.C.S. ties and because we didn't think it was in the interests of safety to take them any further as we were having too much trouble with that block of cars.

Q. Were they all in one block on the train?

A. The O.C.S. ties were all in one block. In addition to those that were running hot we had two O.C.S. cars of weed killer. They were the two other cars that ran hot on us.

Q. Again to help the Commission to understand this, were the set-off tracks, I will call them, again to the south?

A. They were again to the south of both main lines.

Q. You again had to cross over from the west over east to this business track?

A. Yes.

Q. Is that right? Did you set those 23 cars off at Reaburn?

A. Yes.

Q. Where was your front-end brakeman when you were doing that?

A. The front-end brakeman, he was on the engineer's side because of the turn-outs to get over to the business track; he was in position to relay signals to the engineer.

Q. Relay them from whom?

A. From myself.

Q. By the way, who was the engineer, do you remember?

A. J. Lyons.

Q. Do you remember the rest of your crew?

A. Huminiski was the fireman; K. Leverick was the head-end brakeman; L.A. Chalmers was the rear-end trainman.

Q. Then after you set off those cars at Reaburn did you have anything else happen to you?

A. We had no difficulty from there on.

Q. You reached Winnipeg?

A. We reached Brandon eventually.

Q. Did you have occasion to speak to any railway official about these occurrences?

A. Yes, they did call me up.

Q. Pardon?

A. One of the officials called me up.

Q. What about?

A. Well, it was just about the difficulty I had on the trip. He wanted a little more additional information and he verified the fact that the cars

were not in good condition to be out on the road.

MR. LEWIS: That is all.

BY MR. SINCLAIR:

Q. The first time you made a set-off of two cars was at Rosser, Manitoba?

A. Yes.

Q. And where were they from the head-end?

A. I don't recall now exactly where they were.

Q. Where was the block of 23 cars?

A. They were on the head-end.

Q. They were on the head-end?

A. Yes. The first two boxes that ran hot were in the first 26 cars, within the 26 cars.

Q. So this block that caused the trouble was all up at the head-end, in the first 26 cars?

A. Not all together, just at Rosser.

Q. I thought you said to my friend they were all together in the block, within the 23, the cars that caused you the trouble.

A. I said the cars we set off at Reaburn were 23 cars O.C.S. ties. They were all in a block.

Q. Didn't you say they were the ones that were causing you all the trouble?

A. I said later that we had two O.C.S. weed killer cars.

Q. They were right on behind the 23?

A. No, they were the 44 and 45 cars from the diesel.

Q. Where did you set them off?

A. We set one off at Meadows and one off at Reaburn.

Q. You set one off at Meadows and one off at Reaburn?

A. Yes.

Q. Dealing first with Rosser. At Rosser was one of these O.C.S. cars of ties that you wanted to set off?

A. Two of them.

Q. They were within the first 23 from the engine?

A. Yes.

Q. At Rosser it is a straight track, 10 jute track?

A. Yes.

Q. And are you suggesting that it was necessary to have three trainmen there to make the move back into the business track, yourself, the headman and the flagman?

A. Well, to speed up the movement it was necessary.

Q. It could be made simply with two men giving direct signals to the engineman.

A. It is possible.

Q. Under those circumstances the head trainman could have gone flagging and the other two men, yourself and the other fellow, could have come up from the rear and made the move?

A. It is possible.

Q. They could have done it?

A. Yes.

Q. Now, witness, one man could have done it at that location, could he not?

A. I would not be prepared to say that.

Q. You don't think that one man could have made that move with the engineman by going high?

A. Well --

Q. You don't think so?

A. May I quote the rule?

Q. I am asking you if one man on the point of the cars, 23 back, at that location, whether the engineman could see him?

A. No.

Q. He could not?

A. No. There are times when the man who was riding the point would be out of the engineer's view.

Q. That is why I am saying thtt it takes two men.

A. Yes.

Q. As you say, you used the fireman there because you thought it was quicker, that is at Rosser.

A. Yes.

Q. The next point was at Meadows and again the same situation applied.

A. Yes.

Q. Again you could have used two men?

A. Yes.

Q. Again the head trainman could have gone

flagging?

A. Yes.

Q. And the move completed?

A. Yes.

Q. At Reaburn the same situation applied there

A. No.

Q. You have one man back flagging.

A. One man flagging the rear-end.

Q. And one man flagging the head?

A. The head.

Q. And at Reaburn it takes two men to pass signals up to the engineman?

A. Yes.

Q. How many cars were you cutting out at Reaburn, 23?

A. No, our first cut was 43 cars from the diesel.

Q. That is, you were reaching back?

A. To get the O.C.S.

Q. To get those weed killer cars?

A. Yes.

Q. You were going to set off the 23 cars also?

A. Yes.

Q. Why didn't you set them off first?

A. Because we didn't know we had the other car that was running hot until after we had set off the whole lot.

Q. Did not the headman come back?

A. Yes.

Q. Didn't he tell you he had it?

A. No.

Q. When did you find it?

A. We found it after when he was relaying signals. The car was running by him and then he noticed we had an additional hot box. By that time we had pulled up to set the tail-end car over.

Q. Mr. Stacey, would you try to follow this move with me. Say you intended to cut about 45 cars back from the engine and you have your rear trainman out protecting your rear.

A. Yes.

Q. You have your front man protecting the head.

A. Yes.

Q. That leaves yourself and the engineman.

A. Yes.

Q. The engineer would be on the right-hand side of the movement.

MR. LEWIS: My friend is assuming that the crew is minus the fireman in this move he is proposing?

MR. SINCLAIR: That is right, that is what I am putting to him.

MR. LEWIS: My friend did not put it in that way and I just wanted to understand it. I failed to understand his question, that is all.

BY MR. SINCLAIR:

Q. You go up to line the crossover switch?

A. Yes.

Q. You line the switch into the business track?

A. Yes.

Q. Then you position yourself so that you are in sight of the engineman and you can see the tail-end?

A. I can see the tail-end of what?

Q. The tail-end of the cut.

A. In this case I would not be able to see the tail-end.

Q. Fifteen cars.

A. Fifteen cars?

Q. That is what I said.

A. Where do you want me to stand?

Q. I am asking you if you can position yourself so that after you have lined up the two switches you can see the tail-end and the engineman.

A. No, I cannot.

Q. There is no place at all?

A. No, because I have cars on either side of me. There are cars standing next to me on the westward track.

Q. You cannot stand up on top of them?

A. The engineman would not be able to see me if I was standing up on top.

Q. You are saying that the location is such there that you standing on top of a box car cannot be seen by the engineman as you come back through the crossover and on to the business track?

A. If the engineman was standing or proceeding on the crossover he could see me, but he could not see me if he was on the straight.

Q. Could you not go wide and bring him back to the position where you would not lose sight of him; stop him and then go up and then come back?

A. Well, I suppose it is possible if you want to spend two or three hours doing it.

Q. Do you think it would take two or three hours?

A. It would be necessary for me to walk a distance of 20 or 30 cars every time I wanted to relay a signal.

Q. 20 or 30 cars every time you wanted to relay a signal?

A. Yes.

Q. Are you sure of that? You only have 15 cars, you know.

A. Yes.

Q. You would still have to walk 20 cars to be able to be seen by the engineman? Are you not just reaching up in the air for a figure?

A. No.

BY THE CHAIRMAN:

Q. The illustration that has been put to you is 15 cars. Just put your mind to that.

A. In that case, no, I would not have to walk 20 cars.

BY MR. SINCLAIR:

Q. You would not have to walk very far to go back 15 cars, would you?

A. I might have to walk 15 cars or I might have to walk 10, I am not sure.

Q. But by taking three cuts in that way you could have yourself put them away?

A. If I took them in three cuts, yes.

--- The Commission adjourned until 9.30 a.m. Friday, June 28, 1957.

ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD
SERVICE ON THE CANADIAN PACIFIC RAILWAY

57

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ROYAL COMMISSION ON EMPLOYMENT OF
FIREMEN ON DIESEL LOCOMOTIVES IN
FREIGHT AND YARD SERVICE ON THE
CANADIAN PACIFIC RAILWAY

Proceedings of public
hearing held at
Winnipeg, Manitoba, Friday,
June 28, 1957.

PRESENT:

Hon. R.L. Kellock,	Chairman
Hon. C.C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A.R. Winship,	Asst. Secretary

APPEARANCES:

D.W. Mundell, Q.C., C.J.A. Hughes, Q.C.,	Representing the Commission.
I.D. Sinclair, Allan Findlay,	Representing the Canadian Pacific Railway Company.
David Lewis,	Representing the Brotherhood of Locomotive Firemen and Enginemen.

Friday,
June 28, 1957.

57th DAY

MORNING SESSION

--- The Commission resumed at 9.30 a.m.

ALLAN GEORGE STACEY, Recalled.

BY MR. LEWIS:

Q. When we adjourned yesterday, Mr. Stacey, Mr. Sinclair had asked you a question and I wanted to follow that up with regard to the move you had at Reaburn on the trip which you described to the Commission. Just to bring us up to date, you said you had someone flagging the front and someone flagging the rear. Mr. Sinclair was putting to you the question that if you took a cut of only 15 cars instead of the 43 or 44 that you had to take whether you could not then do the work by yourself, the work required.

Now, if you had a cut of 15 cars would you be pulling them or shoving them into the business track?

A. I would be shoving them into the business track.

Q. If you are shoving them into the business track, Mr. Stacey, is there or is there not any rule requiring you or requiring one of the crew to be at a certain spot?

A. Yes.

Q. What is that rule?

A. The rule requires that when cars are pushed by an engine that a man must be on the leading car and be in position to give signals. That is rule 103.

Q. Yes. That reads:

" When cars are pushed by an engine (except when switching and making up trains in yards where there are no public crossings at grade, or where there are public crossings at grade adequately protected by gates or otherwise) a member of the crew must be on the leading car and in a position from which signals necessary to the movement can be properly given."

With reference to what is in parenthesis, at Reaburn would you to your knowledge as a conductor be switching in a yard?

A. It is not used in that term as a yard. The term "yard" is more or less used where you are switching or making up trains, such as at Winnipeg and Brandon and other terminals.

THE CHAIRMAN: Is there any definition of "yard"?

MR. SINCLAIR: Yes. Page 8, Exhibit 27.

MR. LEWIS: Yard is defined as being:

" A system of tracks provided for the making up of trains, storing of cars and for other purposes, over which movements not authorized by time-table or train order may be made, subject to prescribed signals, rules and special instructions".

Yard limits are defined as follows:

" That portion of the main track or tracks within limits defined by yard limit signs".

BY MR. LEWIS:

Q. Are there yard limit signs at Reaburn?

A. No sir.

Q. I will ask the question again as to your opinion as to whether Reaburn would be a yard, from your experience in reading and understanding of the rules.

A. As I understand this rule it would not be termed as a yard, but it would be termed as a station with a siding and business track.

MR. LEWIS: In that case, Mr. Chairman, the witness' view is that where cars are pushed by an engine a member of the crew must be on the leading car and in a position from which signals necessary to the movement can be properly given.

BY MR. LEWIS:

Q. Assuming for the moment that your interpretation of the rule stands, if you were in a position from which signals could be properly given on the leading car would you or would you not be seen by the engineer if you were on the leading car shoving 15 cars into the business track from the westbound main track?

A. No, I would not always be in sight of the engineer. He would lose sight of me on the turn-outs.

Q. On the turn-outs?

A. When we were pushing cars back, when we turned out over the crossover he would lose sight of me if I was on the leading car.

Q. And in your view would there be any way in which you could position yourself so that he could see you?

A. Not by being on the leading car; I would have to standing on the ground and next to the main line where he would be able to see me.

Q. How many switches did you have to throw in order to get to the business track at Reaburn?

A. I have to throw four switches and one derail.

Q. If you took a cut of 15 cars at a time and you had to get to the 43 or 44 car, Mr. Stacey, would you have to make three separate cuts of those?

A. Yes.

Q. Three separate passes or moves, whatever you call it. How long were you at Reaburn making the move that you did make?

A. Thirty-five minutes.

Q. You not only set off the 43rd or 44th car but you also decided to set off some 23 cars which were in a block near the engine; is that right?

A. That is right.

Q. Can you make any estimate as the time you would take in setting off the 43 or 44 cars in three moves instead of one, as well as setting off the 23 cars in a block?

A. Well, there were times when I would be

out of sight of the engineer and I would have to get off the train and go to a position where he would be able to see me. Immediately I made a move I would be out of his line of vision again because I would have to go back and get on the leading car to abide by the rule. Therefore it would take me a considerable time. The only way I could do it would be to violate the rules.

Q. Assume for the moment you violated them and stayed on the ground instead of on the leading car, can you make any estimate as to the time it would take you to make the move with three cuts instead of one.

A. I would say approximately two hours.

Q. Now, Mr. Stacey, you informed the Commission yesterday that there was an extra west behind you. Do you recall that?

A. Yes.

Q. Was there or was there not any other train following you?

A. There was No. 965 which was due to leave Winnipeg at 18.40.

MR. SINCLAIR: Didn't we get past this yesterday?

MR. LEWIS: It arose out of your suggestion that he make three cuts, and this concerns the train which was further back.

BY MR. LEWIS:

Q. At the time you were at Reaburn, when you finished your work at Reaburn how far away behind you

was No. 965?

A. Well, she was due to leave Rugby 10 minutes after the time we were due to leave Reaburn.

Q. How much in time would that be, half an hour or an hour?

A. We left Reaburn at 18.30 and she was due to leave Rugby at 18.40.

Q. How far is Rugby from Reaburn?

A. It is about 33 miles.

MR. LEWIS: I think that is all.

BY MR. SINCLAIR:

Q. There are a few questions arising out of that I should like to ask. Mr. Stacey, if you were in an emergent situation such as this you could have put up your telephone and contacted the operator?

A. Yes.

Q. And in that way arranged for rear-end protection.

A. Yes.

Q. And brought your flagman in.

A. If I had protection first I would have. Then I would have to go out and get him to bring him in.

Q. Could you not whistle him in?

A. I could whistle him in; yes, I could whistle him in.

Q. How long does it take you to put up your phone?

A. Well, approximately ten minutes.

Q. Then you would have two men to make the move, yourself and another one?

A. Yes.

Q. There is a passing track here and a business track, correct?

A. Yes.

Q. Some of the difficulty that you experienced in doing it yourself and protecting the end of the movement, if this is not a yard, was caused by the fact you were putting them in the business track? Is that right? You had to turn out from the passing track into the business track.

A. Yes, that is right.

Q. In an emergent situation such as you were faced with you could have set them out on the passing track and advised the operator.

A. I could have but it still meant crossing over the eastward main line.

Q. That would have been easier in so far as you doing it yourself was concerned.

A. Just a matter of throwing one switch and one derail. It wouldn't have been much easier.

Q. And one more turn-out?

A. You had to make a turn-out to get from the eastward track to the eastward siding. There was a turn-out there. There is an additional turn-out into the business track.

Q. I thought you told Mr. Lewis that one of your difficulties in protecting the leading car,

if you had to do it, was the difficulty in giving signals to the engineer because of the turn-outs?

A. That is right.

Q. I say that if you put them in the passing track you would eliminate the turn-out from the passing track to the business track; is that correct?

A. Yes.

Q. One other thing. The way you had the thing set up you had a flagman out at the rear?

A. Yes.

Q. And the fireman out in front?

A. Yes.

Q. And you were cutting across the main line?

A. Yes.

Q. And cutting across the passing track and into the business track?

A. We were pushing the cars into the business track.

Q. And moving the engine back and forth across?

A. Yes.

Q. And throughout this move there was one man on the engine?

A. Yes.

Q. You were satisfied that that was a safe and efficient way to do the move?

A. No.

Q. Why did you do it?

A. Because I didn't have enough men.

Q. Why didn't you phone the operator if you were worried?

A. How could he help me? He was 33 miles away.

Q. He could give you rear-end protection and you could bring your crew in.

A. At 18.00 o'clock with the next man behind me? The operator is at Rosser.

Q. You had a phone, you could contact him?

A. Yes.

Q. If you had any doubt about the safety of the movement, under the rules that is what you were required to do, was it not?

A. If I had to have a man protecting the crossing I would still have had to do the work myself or else the tail-end brakeman would have had to do the work and I would protect the crossing.

Q. You didn't protect the crossing on this occasion?

A. No.

Q. So you violated that rule?

A. I had to in order to get the work done.

Q. You had nobody on the engine on the left side?

A. No.

Q. Are you serious, Mr. Stacey, in your estimate of two hours which you made to Mr. Lewis

to make three cuts of 15 cars at Reaburn?

A. There is other work entailed besides just setting off three cars. I set off one car and I have some that go back on my train. I set off another car and I have some more that go back on my train.

Q. You had only two cars to set off.

A. One, if I remember, I said was the 43rd car from the diesel and the other one was approximately the 15.

Q. But you can do that with the three cuts?

A. Yes.

Q. Are you suggesting seriously; I mean, is this a matter that you have given some thought to; do you as an experienced conductor say that it would take two hours to make three passes with 15 cars in a pass at that place?

A. It would take two hours to do the job and do it according to the rule, the way the rule reads.

Q. You could do it yourself according to the rule.

A. The only way I would violate the rule would be in two points. I didn't protect the crossing. When the engine moved ahead there was no man on the left side of the diesel. And I didn't ride on the leading car as prescribed by Rule 103.

Q. You have to manfully flag the crossing

at Reaburn; it is not protected?

A. It is not protected in any way.

Q. A man on the left side of the diesel does not help you in that regard?

A. He could see anything approaching from the left side.

Q. That does not provide the manual protection that you need when you push over that crossing.

A. Actually there is no manual protection needed when your diesel is advancing over the crossing.

Q. There is no rule that requires it under any circumstances, is there?

A. If the cut of cars was west of the crossing and the movement was made to back up there has to be a man to protect the crossing.

Q. You did not do that even with two men?

A. At this time we were never over that crossing backing up. We just advanced over the crossing when he was going in a westward direction.

Q. What rule were you talking about then when you told the Commission that you violated it by not having a man on the crossing?

A. Violated to the effect that there was no man on the left side of the diesel to protect the advance movement.

Q. You just reached for that; there is no

rule that requires that.

A. It is safe practice, that is all.

BY THE CHAIRMAN:

Q. You were asked if there was a rule.

A. No, there is no rule.

THE CHAIRMAN: That is what we want to know.

BY MR. SINCLAIR:

Q. Very well, I still want to know whether you are going to revise your two-hour estimate, Mr. Stacey. I think the Commission wishes to have your view on this matter and not just a guess.

A. Are you suggesting that I violated the rules in order to do this work?

Q. I am not here to answer your questions, Mr. Stacey, you are here to assist the Commission by answering mine. I am asking you to consider your answer of two hours and say whether as an experienced conductor it would take you two hours to make three passes of 15 cars a pass.

A. Yes, I would say it would take me two hours to do the job.

Q. When did you last do it?

A. June 19.

Q. How long did it take you with two men?

A. I didn't have two men; there was two men, yes, pardon me. It took me 35 minutes.

Q. You say it would take you four times as long?

A. Yes.

Q. You would never do it, you would have got the operator on the telephone and secured rear-end protection, as an experienced conductor.

A. I would not have asked the operator for protection because I had already had rear-end protection, had already flagged the extra train behind me. In that case that train had to put out his own flag protection. That released my rear-end trainman.

Q. This is new. The rear-end trainman was available then?

A. Not until 35 minutes after I had started the work. I was all ready to leave Reaburn when the tail-end brakeman got up to where we were working.

Q. So what happened here was that by having the fireman in fact you had about half an hour when your rear-end man was available to you in any event; is that correct?

A. No, it would be longer than that because the time he got up to me we had already put in 35 minutes. We were ready to leave Reaburn. If I had to have the tail-end brakeman or release the head-end brakeman to go out flagging, he had to walk 1,500 yards to take up the fireman's position.

Q. Forty-five minutes, do you want to make it that?

A. I cannot walk 1,500 yards in 45 minutes.

Q. How much time do you want? Do you want to

make it an hour? I am trying to get your estimate.

A. I would just increase the time a little and say 15 minutes.

Q. You would have increased it by 15 minutes?

A. No, I would increase it by five minutes.

Q. By what?

A. You made an estimate of ten minutes; I said I would increase that time by five minutes, to make it 15 minutes.

Q. So it is 35 plus 15.

A. Yes.

BY MR. LEWIS:

Q. This estimate of 15 plus 35, what was it, Mr. Stacey? I did not quite follow that.

A. Well, by the time we were ready to leave Reaburn the tail-end brakeman had come up to where we were working and he would have to walk approximately 1,500 yards to relieve the fireman from his flagging duty, and I estimate it would take him pretty well 15 minutes to get out 1,500 yards to take up the flagman's position.

Q. 15 and 35, was that on the assumption of one cut?

A. That was on the assumption that we would have to set off in three cuts.

Q. You said it took you 35 minutes to do it in one cut; would it be 35 minutes if you did it in three cuts even with the assistance of the

other man?

A. We did use the other man, as it happened, and it took 35 minutes to do it with one cut. Therefore it would take us longer to do it with three cuts.

MR. LEWIS: That is all.

BY MR. SINCLAIR:

Q. I do not know that this is very clear, Mr. Stacey. I do not know whether you are confused or whether I am confused, but I understood your evidence to be that after your stop at Reaburn, 35 minutes later your rear-end flagman was relieved and he was up where you were doing the work; that is your evidence.

A. Yes.

Q. That was 35 minutes after your first stop at Reaburn?

A. Yes.

Q. And you said that two men, that was your head man and yourself, had done the work there in 35 minutes.

A. Yes.

Q. And it took 15 minutes in your opinion for what to happen?

A. You were the one that suggested that we do it in three cuts. I did not suggest that we do the work in three cuts.

THE CHAIRMAN: Mr. Stacey, just answer the question which is put to you.

THE WITNESS: Would you repeat the question?

BY MR. SINCLAIR:

Q. What would happen when your rear-end trainman came up? Say there is no fireman and your head trainman has gone flagging and he stays out there. Your rear trainman comes up 35 minutes after you had stopped at Reaburn and he is available to do the work. Why do you add another 15 minutes to do anything? Cannot you do it with the rear trainman and yourself in 35 minutes, the same way as you did it before?

A. I don't think you understand the situation there.

THE CHAIRMAN: I suppose what you have in mind is that because there was not sufficient crew available there would be delay and then when the other man comes up there would be another five minutes needed to do the work.

MR. SINCLAIR; That is right.

MR. LEWIS: The witness does not seem to follow you on that.

BY MR. SINCLAIR:

Q. You had stood for 35 minutes; do you understand that?

A. Yes.

Q. Your head trainman was out flagging and your rear-end trainman went out on the stop and he is brought up after flagging the other train.

A. Yes.

Q. After flagging the other train there

are two of you available to do the work.

A. Yes.

Q. And you could do that work from the time that rear man came up in 35 minutes.

A. Yes.

Q. So that you have 35 minutes here, plus 35 minutes, which is 70 minutes; so the fact the fireman was there saved you 35 minutes, is that correct?

A. No, that is not correct. It would be 35 minutes I stayed there waiting for the tail-end flagman; 15 minutes for the man to walk up to get the flagman.

Q. Why does he have to walk out to get the flagman? The head trainman as soon as you stopped went out to flag and your rear trainman went out to flag; correct?

A. Right.

Q. And then he was available to you?

A. Yes.

Q. Do you agree that by being able to use the fireman there you saved 35 minutes?

A. Yes.

Q. Could you have made it faster with three men?

A. Yes.

Q. How much faster?

A. Well, by three men do you mean three brakemen?

Q. That is right.

THE CHAIRMAN: Do you mean three brakemen plus the conductor?

MR. SINCLAIR: No, three trainmen; the conductor and two trainmen.

THE WITNESS: In that case I would have the fireman flagging.

BY MR. SINCLAIR:

Q. You are protected in front; you have yourself and two men working to make the set-out and do the work; how long would it take you to do it then?

A. Thirty-five minutes.

Q. I thought you said you could do it faster.

A. There is a possibility they could do it faster with an extra man. You have to make the same amount of movement whether there is three men or two.

Q. Two men could handle it?

A. Two men could handle it.

MR. SINCLAIR: That is all.

THE CHAIRMAN: I believe there are some people who were to appear here and perhaps we had better dispense with them now.

AUGUST HENDZEL, Called.

THE WITNESS: Mr. Chairman and gentlemen of the Royal Commission, I, as the Local Chairman of Division 667, Brandon, have been elected to present this signed petition by 50 members in opposition to the removal of the fireman-helper from diesel locomotives in yard and freight service.

There are often times during our tour of duty that the fireman-helper is a very useful man in keeping a sharp lookout on the left side. Also when there are failures in the engine-room he can go back and make necessary adjustments without stopping the train. He also watches out at grade crossings where pedestrians or automobiles are out of the engineer's vision. He has, many times, helped to avert serious accidents at crossings through his vigilance in this respect.

Should the gentlemen of this Royal Commission at the conclusion of all hearings so rule that a fireman is no longer required on diesel engines in freight and yard service we request that that portion of the Code of Operating Rules be revised and definitely state the responsibility of the left side beyond the vision of an engineer.

We, the members of Division 667, feel that in the interests of safety and economy the fireman-helper should be left on diesel locomotives in

freight and yard service.

MR. LEWIS: No questions.

MR. SINCLAIR: No questions.

BY MR. SINCLAIR:

Q. Where was this typed?

A. Winnipeg.

Q. You are from Brandon?

A. Yes.

MR. LEWIS: I am sorry, but my friend apparently is implying something.

BY MR. LEWIS:

Q. Where in Winnipeg was it typed?

A. At the office of our General Chairman. The copy that I previously had was messed up due to it being passed around and it had to be done over.

Q. You mean the office of the General Chairman of the Brotherhood of Locomotive Engineers in Winnipeg?

A. That is right.

JAMES L. STUART, Called.

Mr. Chairman and gentlemen of the Royal Commission, I represent Lodge No. 270 of the Brotherhood of Railroad Trainmen, of which I am Local Chairman. I have in my possession a petition signed by 33 yard foremen and yardmen working in the Kenora and Ignace yards and 133 conductors and trainmen working out of Kenora who are opposed to any change that would permit the removal of the helper from the left side of locomotives in yard and road service because they feel that the helpers' services are indispensable to the safe operation of engines and trains in yard and road service.

Yard foremen and yardmen working in and out of Kenora have particularly emphasized the set-up at the pulp wood spur at Keewatin known as Mill 6, where on account of the curvature signals are given to the fireman and in one yard the foreman, in the words of an engineer, would have to hang by his toes to get a signal from a switchman standing on top of the last car ahead of the engine.

Switching the Keewatin flour mill the engine-men and full yard crew occupied in their work require a helper in the cab to be on the lookout on his side, and in the reverse movements for mill personnel and children wandering about the tracks.

On the road it is felt by the conductors and trainmen that if a helper was not in his position on the left side of the cab and the engineman's eyes there would be the possibility of many accidents occurring at a point called Dryden. Dryden has a foot crossing which is used to cross the tracks to the south side and engines switching in Dryden yard move back and forth over this crossing and many times the movement has been stopped by the fireman to allow women with baby carriages, children, etc., to pass. In fact the town people of Dryden are continually wandering all over the property. We have a way freight switching there six days a week and a road crew in each direction each day. While the engineman is engaged in his duties of switching and watching for signals a helper keeps his eyes on the movement ahead.

On road trips the helper keeps a close watch ahead on curves, approaching road crossings and stations while the head-end trainman is inspecting his train. When trains are stopped on the road due to hot boxes, broken knuckles, air hoses and the rear and head-end trainmen are required to flag, the fireman is of valuable assistance to the conductor in coupling up the train and relaying signals to the engineman.

The conductors, trainmen, yard foremen, and yardmen whom I represent are of the opinion that to do a safe and efficient job a five-member crew

is a must.

MR. LEWIS: No questions.

BY MR. SINCLAIR:

Q. Mr. Stuart, you are Local Chairman of the Brotherhood of Railroad Trainmen?

A. That is right.

Q. Your organization is saying that a five-man crew is a must.

A. That is the opinion of our men in Kenora, yes.

Q. Do you know that your organization has contracts where there are four-men yard crews?

A. Yes sir.

Q. And have never suggested that they need five?

A. I feel that the fireman's duties are not a yardman's duties or a trainman's duties; he has his own duties to do.

Q. You are talking about five men being necessary for the safety of the movement?

A. Yes sir.

Q. Why does your organization then have a contract where there are only four-men crews?

A. I said as far as the engine is concerned an extra man is needed on the engine for a lookout on his side of the cab during switching operations.

MR. LEWIS: I do not think the witness understands my friend's reference to four men and five men.

BY MR. SINCLAIR:

Q. Did you write that brief?

A. Yes sir.

Q. You say that a five-men crew is a must?

A. Yes.

Q. That would be three men, I presume, on the ground and two men on the engine?

A. Yes.

Q. You do not always use three men on the ground?

A. Definitely.

Q. You always use them? They always have their positions?

A. Yes.

Q. I am suggesting to you and you have agreed with me that you know there are cases where your organization has a contract where the crew working is only four.

A. That is an extra man, the foreman and three men.

Q. A total crew of four?

A. Are you including the engineman and fireman and only two men?

Q. Yes; do you know that?

A. No sir, I do not know that, unless it is on special jobs.

Q. General yard work.

A. No sir, I do not.

Q. Also that there is only a crew of four,

and where the engine is under 90,000 pounds weight on drivers there is the engineman and three of a ground crew; did you know that?

A. No sir.

Q. Did you know that? All those things have been in evidence in these proceedings. Did you know that in the United States on a railroad near Chicago the firemen's union have a contract governing the engineers or the operators of large electric locomotives that operate without any fireman?

MR. LEWIS: Mr. Chairman, it is perfectly obvious what my learned friend is trying to do, but with great respect may I suggest that he is addressing himself to that table over there rather than to the Commission. This witness has given evidence about what happened in Kenora and I think my friend's questioning should be limited to that.

THE CHAIRMAN: Of course, in some jurisdictions cross-examination is not so limited, but if the question is as to the witness' knowledge I would presume from what the witness has said already that his answer to this question, if it is a question, would be that he does not know.

MR. SINCLAIR: If he does not know then I am going to move a little bit closer.

BY MR. SINCLAIR:

Q. Do you know about the situation on the Chicago and South Bend?

A. No sir.

Q. You do not?

A. No sir.

Q. On the Canadian Pacific electric lines there is only one man on the engine with a three-man crew, making a total of four; did you know that?

A. No sir.

Q. Did you know that all the members, including the operator of that engine and the three members of the ground crew ---

MR. LEWIS: The witness said he did not know.

MR. SINCLAIR: I am going to take him one step further.

MR. LEWIS: The witness said he did not know about these electric trains.

THE CHAIRMAN: I do not know what the question is, Mr. Lewis.

MR. LEWIS: He is continuing to ask the witness something about the crews on these electric trains about which the witness has said he does not know anything.

MR. SINCLAIR: I am going to ask him something else. My friend seems to be terribly anxious.

MR. LEWIS: I am not, Mr. Chairman.

THE CHAIRMAN: I think the procedure is that the question can be put and then when the question has been put we will be able to make a ruling. At the moment I do not know what the

question is.

BY MR. SINCLAIR:

Q. Did you know that the men on the engines and the men who work on the ground on the Canadian Pacific electric lines, both the operators and the ground personnel, road operation and yard operation, are all represented by the Brotherhood of Railroad Trainmen?

A. No sir.

Q. They did not tell you that when you discussed this?

THE CHAIRMAN: He said he did not know.

BY MR. SINCLAIR:

Q. In the light of those facts, if you accept my statement. Do you think your organization, the Brotherhood of Railroad Trainmen, should take a different position than the one they have taken in regard to their contracts over many years?

A. In my brief there I was concerned with the Kenora Division. That is all I know about at the present time. I have not worked any place else except on the Kenora and Ignace subdivisions, and the Kaministiquia subdivision. Those are the only places I have worked. What I have tried to do there is to show you the conditions pertaining to our subdivision. I don't know any place else.

Q. What you are saying is that you have always worked with five men?

A. That is right.

ROBERT LANE, Called.

Mr. Chairman, I have a petition to present. Mr. Chairman and gentlemen of the Royal Commission, in the matter of a dispute between the Brotherhood of Locomotive Firemen and Enginemen and the Canadian Pacific Railway regarding the employment of helpers on diesel locomotives in yard and freight service.

BY THE CHAIRMAN:

Q. Would you mind just telling us where you are from?

A. Brandon, Manitoba.

Q. What is your occupation?

A. I am a conductor.

Q. Yard, freight or passenger?

A. Freight.

Q. All right, just proceed, Mr. Lane.

A. We, the undersigned conductors, trainmen, yard foremen and helpers employed on the Canadian Pacific Railway do hereby urgently request the members of this Royal Commission to turn down in its entirety the request of the company to remove those helpers as being inconsistent with all the accepted and proven practices of safe and efficient railroad operation and we respectfully ask that our representative be granted the opportunity to present specific details relative to our position in this matter.

That is signed by the conductors and trainmen.

Q. Do you want to give some evidence yourself?

A. I have nothing written out, Mr. Chairman. I am a road conductor.

Q. Do you want to give some evidence?

A. Yes.

Q. Then you had better be sworn.

WITNESS SWORN

BY THE CHAIRMAN:

Q. Yes, Mr. Lane.

A. The matter of the removal of these helpers from diesel freight and yard locomotives is a matter of deep concern to us fellows in train service. It has been generally accepted that this is a matter between the firemen and the company, but I would like to point out that under our operating conditions we have faced new problems with the advent of dieselization and we feel that if you are now going to remove the helpers off diesel engines, by so doing you are going to burden us with additional responsibilities.

I do not need to tell you how we operate these freight trains. We have three men of a train crew. Two of them are at the rear of the train and one is at the head-end. It is conceded that the conductor is the man in charge of each train and as the man in charge of the train it is up to him to see that the crew are so placed that we can adequately patrol and carry out the responsibilities.

that come under our jurisdiction.

For that reason we have always assumed that our primary responsibility was the safety of the train. That is why we are provided with cabooses with elevated observation posts. We are supposed to be able to watch that train at all times while it is in motion.

We also have a man riding the locomotive who is in position to look back over the train and as to what lies ahead, we uphold the normal responsibility that up until this time it has been the responsibility of the engineman and the fireman.

If you remove that fireman, as has been suggested I believe by the company, you still have two men on the locomotive, one trainman and one engineman. Is it the intent then to saddle the head-end trainman, in addition to his responsibility of continuously watching back over his train to keep an observation ahead for the opposite traffic and around curvatures where there is obstructions blocking the view of the engineer. Is he now going to do what the fireman heretofore has done? If that is the fact how is this man going to spend his undivided time looking back over the train to make sure we are still operating safely?

It seems to me that our problem is in two sections here. One is while we are running and the other is while we are working.

In our particular division, eastbound I think we only have two stations where you can go into the business track and do any switching, backing up or setting out and give signals on the engineer's side. I think with the exception of two, everything has to be done on the fireman's side. In the absence of the fireman I do not know how you would get signals up there. We are not allowed to work on the inside where we have not standard clearances.

That in itself is a problem. I might say that in the last few years the amount of work that through freight crews have been required to do en route has increased materially. That is caused primarily by the reduction of assigned way freights. Our work is shared up among the three freight crew members.

May I point out that if we are going to be required to have our head-end brakeman held responsible for what is ahead as well as what is behind to any greater degree than he is held responsible today, then you are going to put us in a very funny position.

I would like to refer to the fact that the head-end brakeman of the three members of the train crew has the best opportunity of all to look from one side of that train to the other. He has vestibules there and he can move across the cab and look out on curvatures. He is not facing in just the one way.

On the tail-end as often as otherwise we have cars in front of us that we can neither see over nor around nor under. It is very similar to taking your car out here and putting a big board in front of it and telling you to lean out the window, you can see just as good. We cannot lean out the window far enough to see except on curvatures of course.

For that reason we feel that the problem or question of removing these diesel helpers is a problem for the train crews as well as for the firemen themselves.

MR. LEWIS: I have no questions.

BY MR. SINCLAIR:

Q. Mr. Lane, you know the rules?

A. Pretty well, yes.

Q. Have you your last certificate with you?

A. With me?

Q. Yes.

A. No. What would I have it here for?

Q. Are you running now?

A. As a conductor. I am the senior conductor in Brandon.

Q. You are in good standing with regard to your rules? You have your certificate?

A. I would have to.

Q. Are you suggesting to this Commission that the responsibility of the head trainman is to spend his undivided time looking back?

A. I didn't say that.

Q. I took a note. You did not mean it in any event, or else my note is wrong.

A. I referred to the fact that while we hold equal responsibility it has been the accepted practice that the responsibility of the train crew is for the safety of the train and running gear.

Q. Either my note is wrong or you did not mean it if you said that the head trainman's undivided time was spent in looking back.

A. I do say his undivided time should be looking back.

Q. That is what he is required to do under the rule?

A. Under what rule?

Q. Under the operating rule.

A. Not undividedly. I referred to the fact that we all hold equal responsibility. The conductor in charge of the train feels this, that we should have a man whose undivided time should be given to looking back. I cannot see ahead half the time.

Q. We are not making speeches.

A. I am not either.

Q. We are just trying to help the Commission understand the situation fully. You just answer the questions and we will get along a little better and much faster.

A. All right.

Q. The operating rules put the responsibility on the head trainman and require him to look ahead and make observations and keep a lookout as he is moving over the road; you agree with that?

A. What rule are you referring to?

Q. The rule book; there are many of them.

A. Can you read the rule to me?

Q. I am asking you whether you agree with me.

A. I don't know the rule that requires him to do that.

Q. You don't?

A. No I do not. I couldn't quote it. I would like it read.

Q. I will argue this with the Commission, but there are many rules I think you will agree that require the crew, including the trainman on the engine, to make observations ahead.

A. Observations, yes.

Q. And to keep a lookout.

A. Keep -- no, not ahead, not continuously.

Q. I am not saying continuously.

A. To keep -- what does that mean?

Q. Do not argue with me, just answer the question, please.

A. I am not arguing with anybody.

MR. LEWIS: Mr. Chairman, I think this is outrageous to question Mr. Lane in this manner.

THE CHAIRMAN: I do not think it is outrageous. I think the witness is doing a little

arguing, Mr. Lewis. It would be better if the witness, like all witnesses, would just answer the questions. Mr. Sinclair, the witness has said that he does not know of any rule and I suggest that you let it go at that. It is entirely out of your hands. If he does not know of any rule and there is a rule there, we will hear about it at the proper time. There is no point in trying to get the witness to make an admission if he says he does not know.

THE WITNESS: Mr. Chairman, may I intercede for a moment?

THE CHAIRMAN: Just answer the questions.

THE WITNESS: I would like to say that I don't know of a rule that says the head-end trainman will keep watch.

THE CHAIRMAN: You said that a few minutes ago. You made your answer and Mr. Lewis is here and he may want to re-examine you. We will make more progress if you will just listen to the questions and make your answers.

BY MR. SINCLAIR:

Q. Is it to your evidence, Mr. Lane, that the engineman and the fireman have to keep a lookout ahead?

A. That is the way we have operated for years.

Q. Do you know Rule 111 that says they are to make running inspections of their trains?

A. Running inspections, yes.

Q. That means that they look back?

A. Occasionally.

Q. There is no distinction in that regard between any employee on the head-end.

A. No, except through practice; we follow the practice.

Q. I am asking you about the rules.

A. Under the rules I don't suppose there is; I don't think it does.

Q. You said that on your subdivision there were only two business tracks ---

A. I believe that is right.

Q. --- where signals could be given direct from the ground to the engineman.

A. On the engineer's side.

Q. Only two?

A. I think that is right.

Q. On your whole division?

A. I believe that is right.

MR. LEWIS: Eastbound.

THE WITNESS: Eastbound.

BY MR. SINCLAIR:

Q. Eastbound. Your division runs from where?

A. Broadview to Brandon.

Q. Broadview to Brandon?

A. Yes.

Q. You say the reason why they cannot give signals on the engineman's side eastbound is because of restricted clearances.

A. It has always been the policy to work on the engineer's side on that division.

Q. By rule?

A. By practice. You do not work on the inside when there is not enough clearance.

Q. Where does it say that?

A. That is something I could not answer you, but it has always been the practice and is today that we work on the outside away from the track or platform.

BY THE CHAIRMAN:

Q. You said that that is the practice, Mr. Lane, and you also said that that has been indicated by the company, and you are being asked where it is so laid down.

A. Well, Mr. Chairman, I have been working for 38 years and it would be pretty hard for me to say where it was tied down. Ever since I have been on the job that has been the rule and the law. That is the way we have operated.

Q. That was your understanding or instructions?

A. That is right.

BY MR. SINCLAIR:

Q. Are you saying you were instructed to do that or has it been the practice?

A. When I say instructed I mean when you start on this job you are instructed by the men you work with, and that is the way I was instructed.

Q. By the other conductors?

A. That is right. That is a practice that has never been stopped anyway.

Q. Have you ever tried to switch an elevator track by giving signals direct to the engineman?

A. Would you repeat that question?

Q. Have you ever tried to set out and pick up cars on an elevator track by giving signals direct to the engineman?

A. On occasion I have where there would be space between the elevator and for straightening a drawbar or something, I might give signals but you could not work in there.

Q. It can be done.

A. It could be done occasionally, yes.

Q. If you went up on top it could always be done.

A. On top of what?

Q. Of the car.

A. I am not required to go up on top, only for safety.

Q. I am asking you if you went up on top it could always be done.

A. I would not be allowed to go up on top.

Q. Please answer the question.

THE CHAIRMAN: Just answer the question, and then make any explanation you want to make.

THE WITNESS: If I went up on top I could give signals if the engineer could see me, but I

don't know. If he had a high car next to his engine he probably could not see me then.

BY MR. SINCLAIR:

Q. You do not think, Mr. Lane, that a man standing on the car behind the engine could be seen by the engineman?

A. If I was working a way back in the business track how can I stand on the car next the engine?

Q. I am asking you: do you think a man standing on the first car behind the engine could be seen by the engineer?

A. I am perfectly sure he could be.

Q. You have three men?

A. Three men.

Q. To work with?

A. Yes, sure.

Q. Is it your contention that they could not be spaced so as to relay signals to that man?

A. In many cases they could not be spaced; absolutely impossible to space or place them in many cases.

Q. Is it your suggestion, Mr. Lane, that with one man on the first car behind the engine and with two other men in setting out or picking up on an elevator track that you could not space yourselves so as to relay signals direct to the engineman; is that your evidence?

A. In every case.

Q. Yes.

A. No, you could not do it, not in every case.

Q. Would you please tell the Commission at what towns on your division it cannot be done.

A. Yes, I can quote you. I will take a place like Moosomin, Saskatchewan.

Q. Some of us know that very well.

A. We have several curvatures there.

THE CHAIRMAN: You are just asked for a list of the places.

BY MR. SINCLAIR:

Q. Moosomin, Saskatchewan; where is the next one?

A. Let me see, where else.

BY HON. MR. McLAURIN: Let us go at it the other way. He said there are only two places that you can do it. Let him name those two and then the other places would fall in the other categories.

MR. SINCLAIR: I think he is backing away from that answer very materially.

BY MR. SINCLAIR:

Q. You are now giving me the places where you say it cannot be done by placing the men, one man on top ---

A. I named you Moosomin and I name you Whitewood, Saskatchewan.

Q. This is all when you are eastbound?

A. That is right.

Q. Setting out or lifting out of an elevator

track?

A. That is right. I do not know whether you could do it at Fleming or not. We are not very often in there, but I believe maybe Fleming could be included in that.

Q. You think you could not do it at Fleming.

A. I doubt if you could. I am not quite certain about Fleming.

Q. Are you giving those points just because there is a curve to the left?

A. Curvatures, yes; the curvatures are actually to the right and the engineer is on the inside eastbound. The curvatures are away from him to the right.

Q. The curvatures are away from the engineer?

A. Yes.

Q. That is why you are saying you cannot space the men?

A. Actually the curvatures are with the engineer. They are more on his side and it leaves us on the outside with him going away from us.

Q. That is the reason, it is because there are curvatures which put the engineer away from you working on the opposite of the train?

A. So that actually we have to have ---

Q. Is that right?

A. Let me explain it, please. We have to

have a man at or near the engine around the curve so that the next man working the field can see the head-end man to give the signal to the fireman. That is the way we have to do it around the curve.

Q. If there was one man on top --

A. If there was one man on top, yes. We don't work a man on top. You asked that question.

Q. Yes. You were thinking of some difficulty where there was not a man on top. Now let us go at Moosomin with a man on top.

A. A man on top. Well now, unless I was on the property I couldn't tell you because we don't work that way and I really don't know whether you could see him or not actually. I imagine on many occasions you would not be able to see him.

Q. You do not know?

A. That man on top, I don't know; we don't operate that way; that is not our method.

Q. Have you ever seen anyone spotting an elevator track, Mr. Lane, with two men on top and one man getting the pin?

A. No, I don't think I have ever seen that.

Q. So you cannot say what effect that would have either?

A. No. I don't know how you would ever operate at all.

Q. What you are saying is that you have done it the convenient way, that is working ---

A. We have done it the safe way, not the

convenient way. It is not very convenient; we do it the safe way.

Q. It is convenient too, is it not? Do not brakemen save their feet?

A. I don't know how they would ever save their feet on a freight job.

Q. You always walk, do you?

A. Always walk; you bet I always walk.

Q. You always come up from the rear-end every time you stop?

A. Yes, every time I have an opportunity I do.

Q. Every time you stop you and your rear-end come up?

A. Where there is an opportunity. We have stops and starts that I wouldn't walk up.

Q. If there was going to be any setting off or picking up or taking apart of your train, you always come up?

A. Yes, we do.

JOHN LEONARD CAMIRAND, Sworn.

BY MR. LEWIS:

Q. Mr. Camirand, you are an employee you told me of the Canadian National Railways?

A. That is right.

Q. And your occupation with the Canadian National is what

A. Right now I am a fireman and a classed engineer.

Q. Since you are a Canadian National employee I will not go through some of the preliminaries but will come straight to an incident which occurred to you on June 21 last -- I am sorry, January.

A. No, the incident took place -- we left Hornepayne on May 5 and arrived Port Arthur the morning of May 6.

Q. Would you tell the Commission about that, please.

A. Well, being the fireman on my regular run on the Continental, Engineer Bulla and I were called.

BY THE CHAIRMAN:

Q. This was a passenger train?

A. Passenger train.

BY MR. LEWIS:

Q. You left Hornepayne, was it, on May 5?

A. Left Hornepayne on May 5. The order was for the usual time of 4.10 p.m. Shortly after being ordered or called we were advised that the

Continental, No. 3, would be detoured via Port Arthur due to a derailment on the western lines.

A normal run was experienced from Hornepayne until we arrived in the vicinity of Current Junction.

Q. Then at Current Junction what happened?

A. When we were in the vicinity of the approach signal to the junction I was in conversation with Engineer Bulla and reminded him that we were to pick up a pilot at Current Junction in order to proceed over the Canadian Pacific tracks to Port Arthur station.

Q. A Canadian Pacific employee would be the pilot?

A. Yes. Engineer Bulla accepted my reminder of the fact that we would pick up a pilot and also the fact that we might come up against a double red stopboard at the junction.

I was sitting in my seat in position to see the double red board at the junction point and the minute I saw the double red I called that fact to Engineer Bulla. Upon receiving no response from Mr. Bulla I immediately called the signal to him again. When at this time he did not respond to my calling the signal I seemed to notice that something was amiss with the engineer.

I immediately got up from my seat and calling to him again that the board was double red and that it was a stop sign which we had to observe

I also noticed that his head was falling back and that Engineer Bulla was not in his proper senses or else, as you would say, had passed out.

Q. Did you walk over?

A. I immediately walked over and applied the brakes to stop the train and we stopped in the vicinity I would say of three cars clear of the double red stopboard.

Q. What happened then, if anything?

A. At this point I tried to remove Engineer Bulla from his seat but being unable to do so in the manner he was seated I immediately ran back and contacted the brakeman who upon seeing me run back came towards me.

I informed him of the engineer's collapse and immediately the two of us proceeded to the cab to remove him from the seat and lay him on the floor and loosen his clothing.

Q. What happened then?

A. At this time the Canadian Pacific pilot climbed on to the engine with the proper clearance for proceeding into the terminal but we informed him that we should have an ambulance meet us at the Canadian National station at Port Arthur due to the fact that the engineer had collapsed. Him and Brakeman Rousseau, the head-end brakeman, returned to the tower to call an ambulance to have it meet us at the station.

Q. Were you standing all the time when you were doing that?

A. We were standing while they called the ambulance. When they returned to the engine, as I was qualified I took the train into Port Arthur station accompanied by our pilot and Brakeman Rousseau who is a qualified conductor.

Q. When you arrived at Port Arthur I suppose the ambulance was there and took Mr. Bulla away.

A. To the hospital and Brakeman Rousseau accompanied to the hospital.

Q. Do you know whether he is back at work?

A. I have spoken to Mr. Bulla as recently as Monday where he was driving his car and I was talking to him on the street.

Q. Is he an older man?

A. I would say Mr. Bulla is in the vicinity of 50 years old.

Q. I hope that is not old because I am not very far from that myself. Thank you.

MR. SINCLAIR: No questions.

TED NICHOLAS CODY, Sworn.

BY MR. LEWIS:

Q. Mr. Cody, you started with the Canadian Pacific as a wiper in September, 1949; is that right?

A. That is right.

Q. Where?

A. Winnipeg.

Q. You were promoted to fireman in May, 1951; was that also in Winnipeg?

A. Yes sir.

Q. And the date is right, approximately?

A. Yes.

Q. Have you been qualified yet as an engineer?

A. No sir.

Q. You have been a fireman ever since May, 1951; in firing service?

A. With the odd time when I was set back in 1954 for two weeks and in 1951?

Q. Have you had experience in passenger, freight and yard service?

A. Very little; mostly yard service.

Q. Very little in passenger and freight?

A. Yes.

Q. You mean mostly in yard service?

A. Yes sir.

Q. Do you recall an incident which occurred to you on April 12 (?) last?

A. Yes.

Q. Would you tell the Commission about that, please.

A. That was the 8 o'clock St. Boniface job. We proceeded back over the Whittier interlocking to Alsips yard to tie up some empty cars which were in the yard and take them back into S yard at St. Boniface. Well we tied up, we backed in and tied up these cars. We had cleared the road crossing, that is right next to the building. The engineer got the sign to proceed ahead and as he started to go up ahead I noticed this truck. It come out from behind this building on to the right-of-way. I called to the engineer to stop. He stopped the movement. Well, the truck had to swerve to get out of our way and he proceeded over the crossing.

Q. What speed would you be going?

A. We had just started up so we could not have been going at any fast rate of speed.

Q. Where was the train crew or the ground crew?

A. The ground crew was positioned so that they could relay signals around the curve to tie up the train.

Q. On which side of the train?

A. On the engineer's side.

Q. Did you or did you not see where they were yourself?

A. I could not see where they were, no, because there was a car in back of us.

MR. LEWIS: Perhaps the members of the Commission have seen the place the witness is referring to. It is set out in Exhibit 226.

BY MR. LEWIS:

Q. Now, Mr. Cody, do you recall an incident which occurred to you in the winter of 1955-56?

A. Yes sir, I do.

Q. Would you tell the Commission about that please. First, do you remember when it happened?

A. Well, it was more in the spring.

Q. Pardon?

A. It was in the spring, it was after the New Year.

Q. Of what year?

A. Of 1956.

Q. What happened there? What were you working on? Was this a yard job or a freight job?

A. It was a yard job, 24.00 o'clock, a Yardmaster train.

Q. Where were you working at that time?

A. We were out on the plant at Rugby with two empty rips off the westbound main line.

Q. Two empty what?

A. Cars that were detailed for the repair yard. As we came ahead over the plant there was a switchman crossing over from the I yard switch, rather the lead running to I yard, the I lead I guess it would be.

He walked across the main line but didn't get

all the way across. He stopped in the middle of the tracks.

Q. Were you on the main line?

A. Yes, we were coming down the main line. There was a slight curve in the track. The engineer said that he had saw the man crossing over and he was in the form of asking me did he get across because he was only about 20 feet ahead I guess, taking into consideration the front of the engine.

The next thing I just saw him right in front of the engine. So I hollered and the engineer applied the brakes along with blowing the whistle. The man had just jumped clear. When we finally did come to a complete stop with our locomotive he was standing underneath the cab. The man came up ---

Q. What do you mean he was standing underneath the cab?

A. Underneath, beside the engine.

BY THE CHAIRMAN:

Q. Just below the cab?

A. Below the cab.

BY MR. LEWIS:

Q. Do you happen to remember the engineer's name?

A. Steve Pomeranski.

Q. Do you happen to remember the name of the switchman who stepped on to the track?

A. Yes, it was Murphy; L. Murphy. I forget

his first name.

Q. Was he a member of the yard crew working with you?

A. No sir, he was not.

Q. Was there or was there not one of the yard crew in the cab with you and the engineer at the time?

A. Yes sir, there was.

Q. Do you recall what he was doing?

A. He had come in for a drink of water.

MR. LEWIS: That is all.

BY MR. SINCLAIR:

Q. This last one, Mr. Cody, that you speak of. What kind of a job was that? You were going out to pick up some cars for the repair track, for the rip track?

A. They were on a train that was stationed on the main line.

Q. You were going to couple on to them and pull them back?

A. Yes, and set off the rips.

Q. Your engine was headed east?

A. Headed east, yes sir.

Q. It was a diesel?

A. Yes sir.

Q. You had made your coupling?

A. No sir.

Q. Which way were you proceeding?

A. We were heading east off the plant.

Q. With a light engine?

A. Yes sir.

Q. And with three members of your ground crew with you?

A. There was two of them.

Q. Where was the third one?

A. He was down at the train.

Q. He had gone ahead down to the train?

A. Yes sir.

Q. Then the two men that were riding with you, the two members of the ground crew, where were they?

A. One had just come up in the cab.

Q. For a drink of water?

A. For a drink of water.

Q. And the other one?

A. He was down on the ground waiting for us to come up.

Q. I thought you said he was on your engine.

A. I didn't quite understand you. He was on the ground waiting for us to come up.

Q. Where had you come from?

A. We had come off the running lead back on to the plant and then down to the main line.

Q. You had come off the running lead. This is an interlocker at Rugby so you get the switch automatically, do you?

A. Yes sir.

Q. Then you passed him, did you, and ten then started back to pick up the cars?

A. You mean pass our own man?

Q. Yes.

A. No sir. We were coming to get him; we were coming back.

Q. Was he standing looking the way you were coming toward him?

A. Yes sir.

Q. And he was on the engineman's side?

A. No sir.

Q. He was on your side?

A. Yes sir.

Q. And the other man had come up into the cab?

A. Yes.

Q. To get a drink of water. He came off the engineman's side, did he?

A. Yes sir.

Q. I think you told the Commission that this man who you think was Mr. L. Murphy, or you know ---

A. Yes, I know it was him.

Q. Started across in front of the light engine and then stopped momentarily and as you came fairly close to him you thought he was in a position of danger and called to the engineman.

A. That is right.

Q. Was the bell ringing?

A. Yes sir, it was.

Q. And when the engineman saw him start across the track he mentioned to you that there was someone starting across; is that right?

A. Yes sir. In fact he was in the form of telling me then when I hollered.

Q. He hadn't completed telling you?

A. That is right.

Q. When you saw the man stop. He hadn't tooted his whistle then?

A. He did when I yelled.

Q. Not until then?

A. Not until then, no sir.

Q. Do you think the warning of the whistle alerted the man or the ringing of the bell or both, or do you know?

A. There was also some men on the ground. They might have given some warning to him too. He didn't seem to realize that ---

Q. You think some men on the ground might have said, "skin your eyes" or something like that?

A. They might have. As I said, there was quite a few of them there.

Q. That was last year. The incident you spoke of in June of this year and in connection with which you referred to Exhibit 226; the crossing you had reference to was inside Alsips plant?

A. Yes sir.

Q. It is a private crossing inside the plant, is it?

A. Yes sir.

Q. And are there any obstructions as you

come up to it?

A. There was buildings; buildings along-side it. There is a crossing right at this switch here.

Q. There are buildings there that obstruct the view?

A. Building right here obstructing the view.

MR. LEWIS: What is right here?

MR. SINCLAIR: At the switch.

THE WITNESS: At the switch, this side.

BY MR. SINCLAIR:

Q. Right at the bottom of Exhibit 226 is shown the Alsip Lumber Company. There is some obstruction there, and your engine was pointed in what direction?

A. We were pointed west, I believe; I think so.

Q. Your engine was pointed west. In other words, you had gone around the curve and were pointed west?

A. That is right.

Q. You had gone in light, had you?

A. Yes sir.

Q. You had moved in light and were moving back across the crossing?

A. Back across the crossing, yes sir.

Q. That is, going over the crossing cab first?

A. Yes sir.

Q. Your bell ringing?

A. I don't remember, sir.

Q. The whistle sounding?

A. We proceeded in and they flagged the crossing going in.

Q. Did they flag the crossing as you came back over?

A. No sir.

Q. And you cannot remember whether the bell was ringing and you do not remember whether you blew the whistle for that crossing.

A. When we came forward the bell was ringing. That I remember because I could hear it through the window.

Q. It was a diesel, of course?

A. Yes. I don't remember it going in.

Q. You do not remember whether you sounded the whistle as you came across the crossing.

A. I don't remember that, no. I know the bell was ringing coming out.

HARRY SHALAY, Sworn.

BY MR. LEWIS:

Q. Mr. Shalay, you are now employed, you inform me, as an engineer for the Canadian Pacific at Fort William; is that right?

A. I am.

Q. You told me that you first joined the Canadian Pacific as a wiper in October, 1940; is that right?

A. That is correct, sir.

Q. At Fort William?

A. That is right.

Q. Before that you had been a cleaner from June of that year at Fort William?

A. At Winnipeg, sir.

Q. Then you were promoted to fireman in October, 1941; was that also at Fort William? Was the promotion in Fort William?

A. Yes sir.

Q. And you were promoted to engineer in August, 1949?

A. That is the approximate date.

Q. When were you set up as engineer?

A. I was set up that fall.

Q. You have been running as engineer since?

A. Off and on, yes sir.

Q. Do you recall an incident which occurred on January 18, of this year, in the Fort William yard?

A. I do, sir.

Q. Were you on a yard job?

A. That was a yard job. I come to work at 4 o'clock; the job started at 4 o'clock in the afternoon. I come to work at 4 o'clock in the afternoon.

The engine follower or the man that follows the engine come down to the shop track to pick us up and we brought the engine out to what we call the puzzle in the yard. It is the place where the work is dished out and it is a puzzle just to know what you are going to get sometimes. This was a regular job, a regular B-A assignment job.

Q. B-A Oil assignment job. That is what they call it. We had come up to the puzzle with a light engine there from the roundhouse track, from the shop track and met the other two members of the crew there who were checking with the yardmaster as to the work they are to perform.

Q. Let us assume that you did all that. Then you started on your tour of duty, is that right?

Q. We started on our tour of duty. We picked up 12 loads in the train yard. I believe they were loads, 12 cars of oil.

Q. What kind of cars?

A. They were tank cars. We proceeded westward, pulling the cars westward to get over to the island where we could switch the different industries that we were supposed to do.

Q. You say get over to the island. Is that a couple of islands you have there that are formed by -- they are a couple of islands formed by little rivers there?

A. They are. The islands are formed by a division of the Kamanisquia River where it divides into the Kamanisquia and the Mission and the McKellar Rivers. The three fingers of the river forms two delta islands.

Q. This was a B-A Oil switching job, as I understand it, on one of those islands?

A. Yes.

Q. You had taken 12 tank cars and were proceeding westward toward the island.

A. That is right.

Q. What happened then?

A. When we were approaching the Duncan Street crossing the fireman hollered a warning and I made an emergency stop. They informed me there was a car in the process of crossing over and they also, when the dust had settled and we stopped they also informed me that we had hit that car.

Q. You say when the dust had settled. Was there dust at the time, or are you using that just as an expression?

A. Just using a figure of speech. In other words, when everything was stopped.

Q. What had happened to the car? Had you hit it?

A. When we hit that car we shoved it into the hard packed snowbank that had been plowed out from the tracks on to the south side, on to a vacant track. That was plowed over, that snow, and the car was pinned in against the snowbank with the engine right up against it.

Q. Was the car very much? Did you damage it very much?

A. There was a couple of small dents on the fender and the engine was at rest right up against the front door of the right-hand side of the car with a dent or two there, and the car was so little damaged that even the windows were not cracked at the point where the engine was touching the door.

Q. Where there any occupants in the car when you saw it?

A. Oh, yes, there usually is occupants in moving cars. There was four of them in that one.

Q. Mr. Shalay, just to keep my reputation clear, I asked you whether there were occupants in the car when you saw it when you got off.

A. There was, I believe, two occupants who were in the process of coming out; two had come out and two were in the process of coming out. They had a little difficulty in getting out because the car was backed in against the snowbank and the engine was drove into the other car and they couldn't get the front door open, the

occupants of the front seat, so they were in the process of crawling over the front seat to go over into the back of the car to get out of the car.

Q. Was any one of the occupants hurt?

A. No.

Q. To your knowledge?

A. The only material damage, the only thing that happened to them was they got a darn good scare.

Q. They were not hurt?

A. No, they were not hurt.

Q. Did you or did you not see the car coming to the crossing before the fireman yelled at you?

A. No, I didn't see the car coming to the crossing.

Q. Were there any of the yard crew anywhere near when you approached this crossing?

A. Yes, there was two yardmen.

Q. Where were they?

A. They were in the cab of the engine discussing their list as to what work they had to perform, figuring out their moves.

Q. The switching list?

A. That is right.

Q. Was the foreman one of the yardmen or not?

A. Yes, the foreman was one of them.

Q. Do you recall whether any of the

passengers said anything to you when you got out of the engine or not.

A. There was not any of the passengers said anything to me at the time, not generally to me, but one fellow that was coming out of the car passed the remark -- I don't know who he passed it to -- he said, "there is a good reason why we need firemen on engines, on diesels."

Q. You heard that yourself?

A. Yes.

Q. Do you know or do you not know where those fellows in the car -- let me put it this way: do you know where those fellows in the car were coming from?

A. Yes, they were employees of Ogilvie's elevator. They were coming home from work.

Q. Home from work, did you say?

A. Yes.

Q. And at the hour that you were at this crossing do you know from experience whether there is traffic of that sort along that crossing, about that hour?

A. I would not say that there is traffic of that sort at that crossing at that hour because now Ogilvie's elevator put a beautiful parking lot in and they use the next crossing, so that is not normal means of crossing. The majority of them use the parking lot and come out at the next crossing.

Q. At the time you had this incident in

January was that parking lot up?

A. Yes, it was up.

Q. And these men were using this crossing unusually, as it were?

A. That is right.

MR. LEWIS: I think that is all.

BY MR. SINCLAIR:

Q. You have some notes there?

A. I have some notes.

Q. You made them at the time?

A. Yes, and no. I have a statement here that I made a few days after.

Q. The evidence which you have given to the Commission is it in accordance with the statement that you have there?

A. I believe so.

Q. May I see it please?

A. I would like to get some legal information on this from my attorney.

THE CHAIRMAN: Just hand it to Mr. Sinclair.

BY MR. SINCLAIR:

Q. Who was your helper on this occasion?

A. That was Fireman Hrycyk; he was my helper.

Q. This statement that you have handed to me is one that you gave on January 23?

A. That is right.

Q. One of the things it says in here is:

" Q. Did you talk to any witnesses?

A. No. Except to tell men in automobile to shove out car so we could move without further damage to automobile."

A. That was the Chevrolet.

Q. You did not tell the company about this man making this statement to you that you remember so vividly today, that that was a good reason why we needed firemen on diesels?

A. I had no reason to tell the company that.

Q. In this statement you said that you saw two cars go across first.

A. That is right.

Q. Then you set up your brake and just as you were coming to a stop you hit this other car. You did not state that today, did you? Does not it say that there were two other cars going across?

A. There was other automobiles going across.

Q. And you saw them and set your brakes?

A. When I saw the two other automobiles cross over they were full across the track that I was using and I didn't have to set the brake for them.

Q. You say:

" I started to slow down opposite station knowing this was a dangerous crossing. My unit was headed west and

"I did not have a clear view of cars approaching from the east. Also two track east of Ogilvie's which is next to lead our movement was on was full of empties. When we were getting close to Duncan Street I had slowed down to about four or five m.p.h. At this time two automobiles crossed ahead of our unit from east to west. Helper Hrycyk shouted to stop at the same time I saw the two automobiles cross. I then made an emergency stop with head-end of my unit about two or three feet over crossing. I did not see Chevrolet car that we hit until I got off the unit."

A. That is right.

Q. Today you told the Commission that the fireman saw this car and yelled at you to stop.

A. That is right.

Q. I have here the statement that the fireman gave at the time and I just want to draw it to you attention, if I may. He said:

" Q. Did you warn engineman on account of first two cars that crossed over?

A. Yes, the third car was not visible." That is what the fireman said. You knew he said that, that he had never seen the third car.

A. Who did not see the third car?

Q. The helper. I will read you the whole of the fireman's statement. He said:

" I was diesel helper on 6512, for p.m. island assignment. We picked up 12 cars from the train yard and proceeded west. We slowed down our movement to about four miles per hour at Duncan Street and engineman started bell ringing opposite station which is some distance away from Duncan Street and kept it ringing until police arrived. Before we came to crossing I got up off seat and stood at window to get a clear view of traffic. There were cars on track next to lead we were on east of Ogilvie's making very poor chance to see cars coming from the east. Two cars crossed ahead of our movement when we were about two carlengths from crossing and I called to Engineman Shalay to stop, and he shut off diesel. Just before we stopped a third car came from between the empties on two tracks at Ogilvie's on to lead directly in front of our unit. I expected either our movement to stop or the auto to clear. We struck right front door of Chevrolet licence C-48375, damaging door and pushing car off crossing.

Q. How far did you move after striking car?

A. About half length of unit.

Q. Did you warn engineman on account of first two cars that crossed over?

" A. Yes, the third car was not visible."

MR. LEWIS: Mr. Chairman, my friend read the first paragraph which clearly implies, in fact which states that the fireman saw this third car coming behind some cars on the track. Then there is the question if he warned the engine-man on account of first two cars and the answer is yes, that the third car was not visible. That is put on to the sentence as if the fireman had never seen it.

THE CHAIRMAN: As I understand it, this is a statement of what the fireman said. Just what effect would that have on the answer given by the witness I cannot see at the moment.

MR. LEWIS: There is no contradiction between the two. I suggest that my friend let the witness say so.

MR. SINCLAIR: It will all be a matter of argument in view of the answer in the statement and the evidence given.

LLOYD HENRY GOOD, Sworn.

BY MR. LEWIS:

Q. Mr. Good, you informed me that you joined the Canadian Pacific Railway as a wiper on October 1, 1946 at Kenora; is that right?

A. No, at Brandon.

Q. And then you became a fireman in September, 1947?

A. That is right.

Q. Where was that?

A. At Souris.

Q. You were qualified as an engineer in 1953?

A. That is right.

Q. And where were you then?

A. Kenora.

Q. Then you also informed me that your experience has been mainly as a fireman, that you have not yet been set up as an engineer.

A. Yes, I was set up for six weeks last summer.

Q. Last summer?

A. Yes.

Q. Otherwise you have been a fireman except for occasionally running as an engineer. You also informed me that you have been in passenger service for the last four weeks or so, but before that you were in freight; is that right?

A. That is right.

Q. Will you please tell the Commission about an incident which occurred to you on February 21 last.

A. Well, we were ordered out of Kenora at 8.15 in the morning and left at 9.15 with a GM road switcher.

Q. How many?

A. Two units.

Q. Do you remember their numbers?

A. When I looked at the official carbon copy the number was not too clear, but I think it was 8611 and 8614. But I am not sure of that.

Q. How many cars were you pulling?

A. I believe it was in the vicinity of 80 to 90 empties.

Q. Do you remember the name of the engineer who was with you?

A. A. Robertson.

Q. Now then, you pulled out of Kenora. Would you get to the incident that you want to bring to the attention of the Commission.

A. Approaching Mileage 28 at Tache there is a public crossing there and there was a woman approaching the crossing.

Q. We cannot hear you.

A. Approaching the public crossing at Mileage 28.

Q. Is that a town or station?

A. Yes, that is right. At the siding at Tache the engineer had blown the whistle and the bell was ringing and we were still about 20 carlengths away from the crossing and the engineer had completed the whistle signal and after getting a little closer to the crossing I noticed this woman walking towards the crossing and as it was on the left-hand curve the engineer could not see her.

Q. How was this woman dressed, did you notice?

A. It was pretty cold weather and she was pretty heavily dressed. She was carrying a log of wood over her shoulders. So realizing that she didn't hear us coming or couldn't see us coming, I hollered at the engineer to blow the whistle again. We were about four or five carlengths from the crossing then and as soon as the whistle was blown she heard it as she was about to step on to the track and she jumped back and the log fell off her shoulder and we missed her by approximately 24 inches where the front of the diesel went by, where she stepped back.

Q. Was there or was there not a brakeman in the cab with you?

A. Yes, the brakeman was sitting behind me.

Q. Do you know what he was doing at the time?

A. Yes, he was checking the train on that left-hand curve and watching for two exchange signals with the tail-end.

Q. Do you know whether of that is required by the rules?

A. Yes, he was living up to the requirements of paragraph 2 of Rule 90.

Q. With respect to what?

A. To being in position to check the train passing through stations and exchange signals with the tail-end crew.

BY MR. SINCLAIR:

Q. Approaching this crossing, Mr. Good, was the regulation crossing whistle sounded?

A. Yes.

Q. What is known as the 14-L whistle?

A. That is right.

Q. In accordance with the rules?

A. Yes.

Q. Exhibit 27 is the Uniform Code of Operating Rules and Rule 31, paragraph 4 reads:

" Signal 14(1) must be sounded at least 80 rods (1/4 mile) from every public crossing at grade (except within the limits of such towns or cities as may be prescribed in special instructions) and at whistle posts; to be prolonged or repeated according to the speed of the train."

A. Would you read that again?

Q. (Reads)

" Signal 14(1) must be sounded at least 80 rods (1/4 mile) from every public crossing at grade (except within the limits of such towns or cities as may be prescribed in special instructions) and at whistle posts; to be prolonged or repeated according to the speed of the train."

That did not apply here?

A. No, that is the part in parenthesis did not apply.

Q. Did he prolong the blast of that whistle until he got to the crossing?

A. Yes, he did to a certain extent.

Q. Then how could he give another toot before he got to the crossing if he was giving a prolonged blast?

A. He might have been going to repeat that whistle, I don't know. He may have been going to repeat it.

Q. In any event --

A. He might have, but if he didn't I am quite positive in my own mind that woman would be dead now.

Q. You say that he might very well have been going to repeat the whistle?

A. Yes.

ANDREW NORMAN MacDONALD, Called.

THE CHAIRMAN: Yes, Mr. MacDonald.

THE WITNESS: Mr. Chairman, I was appointed by Moose Jaw Lodge, No. 34 of the Brotherhood of Railroad Trainmen to present a petition signed by 70 members of the trainmen in Moose Jaw in connection with this inquiry. It reads as follows:

" Regarding the present dispute between the Brotherhood of Locomotive Firemen and Enginemen and the Canadian Pacific Railway, emanating from a request made by the railway to remove the firemen from diesel locomotives in freight and yard switching service on the Canadian Pacific Railway. We, the undersigned, employed as railway trainmen and conductors by the Canadian Pacific Railway at this time would like to take this opportunity to protest any change that would permit the removal of firemen from road diesel and yard switchers."

MR. SINCLAIR: One other witness also read something like this. If this is in the form of a brief I think we should know it.

THE CHAIRMAN: All right, go ahead.

THE WITNESS: (Reads)

" We recognize the value of having the fireman or helper on the left side of an

"engine as a trainman working under present conditions cannot at all times be in position to observe conditions ahead and to the rear, for the reason that in regard to yard switching he must normally be on the ground, to observe a train inspection in case of right-hand turns or curves he moves to the same side as the engineman. Other examples can of course be cited. We firmly believe that for safe and efficient operation of the railroad that there should be no reduction of crew members at this time.

However we would like to thank you for this opportunity and present to the Commission this petition signed by members of the Brotherhood of Railroad Trainmen." That is signed by 70 trainmen and conductors.

THE CHAIRMAN: We will take your statement but we cannot accept that as the statement of the participants as such. We have heard you.

MR. LEWIS: No questions.

MR. SINCLAIR: No questions.

THOMAS GEORGE MARK BAKER, Sworn.

BY MR. LEWIS:

Q. Mr. Baker, I understand you are now working as a fireman out of Kenora?

A. Yes.

Q. Employed by the Canadian Pacific Railway of course?

A. Yes.

Q. And that you first joined the Canadian Pacific on November 12, 1947 as a wiper at Brandon?

A. Yes.

Q. You were promoted to fireman in the summer of 1948?

A. Yes.

Q. Was that at Kenora?

A. No, I was firing a steam shovel on a work train at Souris.

Q. And you continued working as a fireman and were promoted to engineer in October, 1953; is that right?

A. Yes.

Q. Where at?

A. I was working in Kenora then.

Q. You will have to speak up.

A. I was working in Kenora then.

Q. You have not been set up as an engineer yet?

A. No.

Q. You have had experience in yard, freight and passenger service as a fireman; is that right?

A. Yes.

Q. What is your record with the Canadian Pacific Railway?

A. I have never had any demerit marks since I started.

Q. Do you recall an incident which happened to you on April 26 last?

A. Yes.

Q. Were you working on a yard job or a road job at the time?

A. A road job.

Q. And this incident occurred to you when you were starting your work or when you finished?

A. At the completion of the trip.

Q. In what yard?

A. Kenora yard.

Q. Would you tell the Commission what happened.

A. We were on Train 959 out of Ignace, we left Ignace at 22.25 and arrived at Kenora at 2.50. We placed the engine on the shop track at 3.10. We just started down the shop track and was down not more than a short distance ---

Q. You say you placed the engine on the shop track. On your trip from Ignace to Kenora you would of course have a train crew with you?

A. Up until the time the engine was placed

on the shop track.

Q. You had placed the engine on the shop track; you had already yarded your train?

A. That is right.

Q. When you place an engine on the shop track do any of the train crew remain with you after you have placed it there?

A. No, they were done for the day; their work was finished.

Q. You and the engineer were alone on the engine and the engine was then light?

A. Yes.

Q. I am just trying to speed things up a bit. Then you went along to the place where you were on the shop track with the engine; what happened then?

A. We were just starting down the shop track. There was a slight curve which in that position the engineer could not see down the shop track any distance and I noticed two men walking down the track in the same direction we were going with their backs to us.

Q. Walking down the track you were on?

A. Yes. One was between the rails and one was right on the very edge. I yelled at them but they didn't seem to notice us. I yelled at the engineer to soak her and he put the brake in emergency and we stopped no more than about I would say five to ten feet from the two men. They still didn't see us; they didn't know we were

coming or anything.

I leaned out the window and yelled at them again and one fellow he turned to the one that was between the tracks and he grabbed him and hauled him off the rail, from between the rails. I asked them what they were doing walking around the yard.

Q. What did they say to you?

A. They were extra gang workers for the steel gang and were returning to their boarding cars. They hadn't heard us coming or seen us. I said that they had best walk somewhere else than in the middle of the track in the future.

Q. Had the whistle been sounded or not?

A. No. The bell was still ringing; when you are working around the yard the general practice is to have the bell ringing. We hadn't gone that far down the shop track yet for the engineer to turn off the bell. It was still ringing, but the whistle wasn't blowing.

Q. Was it ringing when you saw these two men?

A. Yes, when I first saw them I believe it was still ringing and when we stopped. Then when the men were clear we just carried on and returned to the shop.

BY MR. SINCLAIR:

Q. This occurred at 3.10 a.m.?

A. Yes, a.m. That is, after midnight.

Q. These men were coming from town, were

they?

A. I could not say where they were coming back from.

Q. They had not been working that night, had they?

A. I don't know; they were not working at that time.

Q. There was no extra steel gang working at 3 o'clock in the morning?

A. No, but their boarding cars were stored in the yard.

Q. They were coming back to have a sleep at 3 o'clock in the morning?

A. I presume that is it.

Q. They could not hear the bell ringing on the engine? It was a steam engine?

A. Yes.

Q. They could not hear the bell on the engine?

A. Yes.

Q. This was a steam engine that you were taking from the switch at the shop track down to the roundhouse, was it?

A. Yes.

Q. The switch is at the yard office?

A. Yes.

Q. If it was a diesel you would not have been taking it there?

A. There are several diesels returned to the shop in Kenora. If they are not running right

through they take them down to the shop until such time as they are ordered again.

Q. This crew got off at the shop track switch?

A. The train crew?

Q. Yes.

A. Yes.

Q. They could have gone down with the engine to the shop track?

A. I don't know. They are no longer being paid once they have placed that engine on the shop track.

Q. They could go down with it?

A. I suppose they could if they wanted to go for the ride, but they are not being paid.

Q. There is nothing to prevent the company arranging to have the trainmen take the engine right to the shop track where it stops, is there?

A. I imagine it would involve a schedule change for the trainmen.

Q. Do you know that?

A. No, I do not know, but I know they are done at that stage.

Q. You know that the practice is that they get off at that switch, is not that what you mean?

A. No, I mean when they have placed us on the shop track they are no longer on pay. Therefore their day's work is done.

Q. I am asking you if the practice has been

for the trainmen to open the shop track switch and then to leave the engine? That is the practice at the yard office at Kenora?

A. At any place I have ever worked.

Q. That is the practice, is it?

A. Certainly.

Q. You do not know anything about the schedule. You are not suggesting that you understand the schedule?

A. No, I do not. I just said that they are done when they get to the shop track switch.

THE CHAIRMAN: You mean the schedule of pay?

MR. SINCLAIR: The labour agreement. That is all I have.

ALBERT SANKOW, Sworn.

BY MR. LEWIS:

Q. Mr. Sankow, I understand that you joined the Canadian Pacific Railway in April, 1951 as a wiper?

A. That is true.

Q. And after nine months you became a fireman, sometime in 1952?

A. April 27, 1952, I was qualified as a fireman.

Q. You have been on the spare board for firemen since then?

A. Yes sir.

Q. Do you recall being a fireman with Mr. Ralph Colpitts as engineer on a trip from Souris, was it?

A. Souris.

Q. To where?

A. Winnipeg.

Q. About April 3 of this year?

A. April 3, 1957; this year.

MR. LEWIS: Mr. Chairman, much of this evidence was given by Mr. Colpitts. The reason for calling Mr. Sankow is that there was a certain conflict suggested in cross-examination. If I have your permission and my friend does not object I will hurry it up by giving some of the facts which are not in controversy. The moment I go beyond that I am sure my friend will stop me.

MR. SINCLAIR: Quite a job to put on my shoulders.

MR. LEWIS: I will be very careful.

BY MR. LEWIS:

Q. Mr. Sankow, the Commission had evidence that there were two diesel units on this train which had started from Estevan and that there had been trouble with the rear unit, the second unit, going from Estevan to Souris and that the unit had been cut out during part of the trip from Estevan to Souris; that is right?

A. Yes sir.

Q. And it was also given in evidence before this Commission and it was not contradicted that at Souris the train was filled up. There had been some 30 odd cars at Estevan but at Souris it was filled out to over 60 cars.

A. That is correct.

Q. There was also evidence that as a result that second unit, with which there was some trouble, instead of being cut out altogether, only one traction motor was cut out at Souris so that you travelled from Souris to Winnipeg with some power in the second unit; is that right?

A. Yes sir.

Q. Now then, with that background to bring us up to date, Mr. Sankow, were there any railroad officials at Souris when you and Mr. Colpitts started your run?

A. Yes, there was Master Mechanic R. MacDonald

and also Foreman of Engines Art Grant were there at Souris to meet the diesel to cut out the traction motor and put the remaining traction motors on line to finish from Souris to Winnipeg.

Q. Did you see them work on them yourself?

A. Yes, I did see the electrician was present and the Road Foreman of Engines was present cutting out the traction motor.

Q. Did they or did they not do something?

A. In order to cut out the traction motors on a General Motors you have to do it in the electrical end of it. It is not done by a switch as you have on the Alcos. They had to cut them out individually. At this time they had made a mistake by cutting out the wrong traction motors. After consulting the blueprints they had done the proper thing.

Q. They had to put the traction motor they had cut out back on the line and cut the other one out?

A. That is true.

Q. After that was done, after they had cut out the traction motors, did you start on your trip or not?

A. No, we didn't start on our trip as we were to pick up a certain amount of cars in the yard at Souris; we were to fill out to extra tonnage. As this procedure was done and as we left the station at Souris they had some difficulty lifting the train with one unit.

To my knowledge Mr. Grant went to the second unit and cut the second unit in in order to get some power to lift the train up at the station in order to pull the train to the east end of the yard where we were to pick up the remaining train.

Q. Then did you start out from Souris to Winnipeg after that?

A. Yes. After that we started out from Souris to Winnipeg.

Q. At any time before you got on the way did or did not Mr. Grant or Mr. MacDonald speak to Mr. Colpitts or yourself?

A. Yes, there was conversation as to the possibilities of reversing the traction motors with the remaining traction motors that were cut in on the second unit. There was a possibility of skidding the wheels due to heavy amperage on the second unit, due to the heavy train and the heavy grade as we pulled out of Souris.

Q. Was anything said to you or to Mr. Colpitts with regard to this amperage?

A. Well, I was instructed to watch the wheels as we pulled out of the yard at Souris and to go back frequently to the second unit as we left from Souris to Winnipeg. That was my duty, to patrol the second unit because there was a possibility of sliding wheels and reversing traction motors.

Q. Do you recall who gave those instructions?

A. Road Foreman of Engines, Art Grant.

Q. Did Mr. MacDonald or Mr. Grant say anything to you when you left Souris?

A. Well, Mr. Grant and Mr. MacDonald were having a conversation that Mr. Grant was required to be in Brandon. We asked Mr. Grant if he was going to go through to Winnipeg with us on this trip but he said no, he was required to ride 953 west to Brandon on the main line.

As he was to get off at the crossing at Newstead where he would be picked up by Master Mechanic R. MacDonald to take him over to Brandon. That is five or six miles out of Souris where the main highway crosses there. That is where Mr. Grant dropped off to go to Brandon.

At this time Mr. Grant suggest to Mr. Colpitts that he would slow down for the crossing in order for him to drop off as if we had made a complete stop there would be a possibility having trouble lifting the train at Newstead. As Mr. Grant dropped off he was running alongside the diesel watching the wheels and at this same time I had to stand on the side of the diesel making an inspection.

Q. Where were you standing?

A. On the steps, the handrails of the diesel, as I had done repeatedly during my inspections.

Q. Now, did you or did you not do any more patrolling of the second unit after leaving Newstead?

A. Yes. I had done several patrols as it is

my duty to look at several things that would possibly have something to do with the traction motors reversing and sliding wheels.

Q. Did you or did you not inspect those wheels after Newstead?

A. Yes, I did several times.

Q. Now, Mr. Sankow, did you make any statement at the request of the company as to what happened on April 3?

A. Yes. I had made a statement over the telephone to Mr. Fowler.

Q. Mr. Fowler is who?

A. Mr. Fowler is the Winnipeg Locomotive Foreman of the yards and roundhouse.

Q. You say you made a statement to him over the telephone. Can you remember when he telephoned you?

A. Mr. Fowler telephoned me long distance on the night of May 29 of this year and at this time.

Q. Telephoned you long distance. Where were you?

A. I was at Portage la Prairie.

Q. What were you there for?

A. I had to attend a funeral. There was a death in the family and I was attending the funeral at this time.

Q. Had you or had you not informed the officials that you were going to Portage la Prairie for that purpose?

A. No, I did not inform the officials that I had to go to Portage la Prairie because it has been my understanding that we were not to leave the terminal. But due to the death in the family I could not see it would do any harm by leaving Winnipeg to go to Portage la Prairie to attend the funeral as it is only a few miles out of Winnipeg.

Q. What time of the day or evening did you speak to Mr. Fowler?

A. It was later in the evening, at 10.45 standard time in Portage la Prairie. That would be 11.45 Winnipeg time, that is daylight time.

Q. Where were you reached?

A. I was reached at the motel. I was staying at the Mayflower Motel, which is just across from the McMaster Funeral Parlor. I came in to go to sleep and I noticed this message on the desk that I was to get in touch with Mr. Fowler, s.a.p.

Q. What does that mean?

A. Soon as possible.

THE CHAIRMAN: Do we need all these details?

MR. LEWIS: With great respect, I think they may be of some significance. I am sorry to take up the time, but I think they may be of some significance.

BY MR. LEWIS:

Q. Did you telephone Mr. Fowler?

A. Yes, I telephoned Mr. Fowler and he asked me questions pertaining to the trip from Souris to Winnipeg, if I remembered. I told him I remembered vaguely as during the circumstances I was attending a funeral my mind was not clear just as to what questions Mr. Fowler had asked over the phone. His voice over the phone was very faint and I had some difficulty in answering his questions.

Q. He asked you some questions and you gave him some answers, is that right?

A. Yes.

Q. Over the telephone?

A. Over the telephone.

Q. Did he or did he not ask you whether he could meet you to sign a statement?

A. He asked me if there was any place where he could meet me. I told him, yes, I was at Portage la Prairie at the funeral chapel.

Q. Did he meet you at the funeral chapel?

A. Yes, he met me at the funeral chapel.

Q. When?

A. On May 30, the following day.

Q. And did he have a statement with him when he met you?

A. Yes. Mr. Fowler had a statement written out for me, the one he had taken over the phone.

Q. What happened then when he approached

you with that statement at the funeral parlor at Portage la Prairie?

A. As Mr. Fowler approached me I had to go into the funeral parlor in order to have the last services for the family, as I was required to be a pall bearer. Mr. Fowler approached me with this statement and the majority of the family that were passing by asked me what was the trouble and I stated this was just a little business. They were concerned but I said it is just a little business.

As the funeral had been held up by Mr. Fowler asking me to sign this statement, as he wanted it to send away immediately to Ottawa to Mr. Woodland, I believe he stated, and therefore I signed it in a sort of rush. I didn't read it over carefully. The questions that were asked me, they were pertaining to what happened and were altogether different, they were different altogether.

Q. You did sign it, did you?

A. Yes, I did sign it.

Q. Outside or inside the funeral parlor?

A. Outside, right beside the gate.

Q. By the way, Mr. Sankow, was this the only death in your family around that time?

A. No, that was the second death in that week. My father-in-law had passed away the previous week. Due to the nature of the deaths and as I was attending the funeral I

would say I was not in any state of mind to sign any statement.

MR. LEWIS: That is all.

BY MR. SINCLAIR:

Q. Mr. Sankow, are you saying that the statement that you gave to the company is wrong

A. Yes, it is to my knowledge.

Q. You are now prepared to swear that Mr. Grant instructed you on this occasion to make repeated patrols?

A. Yes, Mr. Sinclair.

Q. In spite of the fact that you gave a statement to the contrary?

A. Would you kindly repeat that for me, Mr. Sinclair?

Q. The man who asked you was Mr. Fowler? He is the man you dealt with all the time?

A. He is my superior officer.

Q. He phoned you up and you told him exactly the opposite over the telephone; is not that right?

A. Pardon me?

Q. You told him the opposite, you told him that Mr. Grant had not told you to patrol? Is that right? Did you tell him that on the telephone?

A. Yes, I did, Mr. Sinclair.

Q. And did you tell Mr. Fowler also that Mr. Grant or other officials at Souris did not

ask you to inspect the wheels to see if they were turning? You told him that too?

A. Yes.

Q. Did you tell him you did not get those instructions from Mr. Grant or from any other official at Souris?

A. Over the phone, yes.

Q. Then later you signed this statement to which you referred in your answers to my friend Mr. Lewis.

THE CHAIRMAN: Has he not answered that?

MR. SINCLAIR: I want to know if Mr. Fowler took any statement other than that from him.

THE CHAIRMAN: Ask him.

BY MR. SINCLAIR:

Q. Did Mr. Fowler take any other statement from you concerning this affair?

A. Not to my knowledge.

MR. SINCLAIR: I will undertake to file the statement in due course and I will have mimeographed copies made and will supply copies to my friend. That is all I have with this witness.

There was another document that I intended to put in and which I undertook to put in.

THE CHAIRMAN: Is this a new exhibit?

MR. SINCLAIR: Yes. I have not the number of the last exhibit.

This is an extract from the Locomotive Engineers Journal of May, 1957, and the particular article is entitled "Grand Chief's Message."

EXHIBIT 275: Extract,
Locomotive
Engineers
Journal,
May, 1957.

--- The Commission adjourned at 12.15 p.m.
until 10 a.m., July 3, 1957.

BINDING SECT. APR 21 1972

